

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

MARGARET A. CARTER,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 2:07-cv-682-WKW
)	
DIALYSIS CLINIC, INC.,)	
)	
)	
Defendant.)	

**PLAINTIFF'S EVIDENTIARY SUBMISSION IN OPPOSITION TO
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

COMES NOW Plaintiff, Margaret A. Carter, and, in opposition to the Motion for Summary Judgment of Defendant, respectfully submits the following evidence:

1. Deposition of Margaret Carter.
2. Margaret Carter's Job Description.
3. July 20, 2005 Letter from Dr. Domingo.
4. July 21, 2005 Letter from Dr. Domingo.
5. July 26, 2005 Letter from Dr. Domingo.
6. Margaret Carter's Termination Letter.
7. Margaret Carter's Notice of Employee Termination.

8. Defendant's Response to Plaintiff's First Set of Interrogatories.
9. Lee Ashbury's Job Description as Administrator.

Respectfully submitted,

/s/ John D. Saxon

John D. Saxon

Alabama Bar No. ASB-3258-071J

Russell P. Parker

Alabama Bar No. ASB-7571-S74P

Attorneys for Plaintiff

OF COUNSEL:

JOHN D. SAXON, P.C.

2119 3rd Avenue North

Birmingham, AL 35203

Telephone: (205) 324-0223

Facsimile: (205) 323-1853

Email: jsaxon@saxonattorneys.com
rparker@saxonattorneys.com

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Plaintiff's Evidentiary Submission in Opposition to Defendant's Motion for Summary Judgment on the following counsel of record by filing same with the CM/ECF system, which will provide electronic notice to:

Davidson French
Tim K. Garrett
BASS, BERRY & SIMS, PLC
315 Deaderick Street, Suite 2700
Nashville, Tennessee 37238
(615) 742-6240

Henry C. Barnett, Jr.
CAPELL & HOWARD P.C.
150 South Perry Street
Montgomery, Alabama 36104
(334) 241-8000

DONE this the 7th day of July, 2008.

/s/ John D. Saxon
OF COUNSEL

DEPOSITION OF MARGARET CARTER

May 14, 2008

Pages 1 through 105

PREPARED BY:

Haislip, Ragan, Green, Starkie & Watson, P.C.

566 South Perry Street

Post Office Box 62

Montgomery, AL 36104

Phone: (334) 263-4455

Fax: (334) 263-9167

E-mail: haislipragan@charter.net



Page 1		Page 3	
1	IN THE UNITED STATES DISTRICT COURT	1	2 Receipt for the DCI benefits package 22
2	FOR THE MIDDLE DISTRICT OF ALABAMA	2	book
3	NORTHERN DIVISION	3	Family and medical leave of absence 22
4		3	policy
5	MARGARET A. CARTER,	4	Personal leave policy 23
6	Plaintiff,	5	Leave of absence dated /13/03 32
7	vs. CIVIL ACTION NO.	6	Letter dated 1/6/03 to Margaret Carter 35
8	2:07CV682WKW	7	from Lee Ashbury
9	DIALYSIS CLINIC, INC.,	8	Handwritten note dated 12/11/03 to 35
10	Defendant.	9	Denise Dameron from Margaret Carter
11		9	Letter dated 11/30/04 to Margaret Carter 40
12		10	from Lee Ashbury
13	*****	11	Complaint 47
14		12	Work schedule for April 2005 67
15	DEPOSITION OF MARGARET ANN CARTER, taken	13	Work schedule for May 2005 69
16	pursuant to stipulation and agreement before Lyn	14	Plaintiff's response to defendant's 70
17	Daugherty, ACCR #66, Certified Court Reporter and	15	first set of interrogatories and
18	Commissioner for the State of Alabama at Large, in	16	requests for production of documents to
19	the Law Offices of John D. Saxon, 2119 3rd Avenue	17	plaintiff
20	North, Birmingham, Alabama, on Wednesday, May 14th,	18	Letter dated 5/30/05 to Margaret Carter 82
21	2008, commencing at approximately 1:05 p.m.	19	from Lee Ashbury
22		20	Short-term disability application 83
23	*****	21	Letter dated 6/20/05 from Ireno Domingo, 85
		22	M.D. To Whom It May Concern
		23	Letter dated 6/27/05 to Margaret Carter 86
			from Lee Ashbury
			Letter dated 7/20/05 from I. Domingo, 86
			M.D. To Whom It May Concern
			(Index continued on next page)
Page 2		Page 4	
1	APPEARANCES	1	18 Letter dated 7/21/05 from I. Domingo, 88
2	FOR THE PLAINTIFF:	2	M.D. To Whom It May Concern
3	Mr. John D. Saxon	3	19 Letter dated 7/26/05 from I. Domingo, 89
4	JOHN D. SAXON, P.C.	4	M.D. To Whom It May Concern
5	Attorneys at Law	5	20 Letter dated 7/26/05 to Margaret Carter 92
6	2119 3rd Avenue North	6	from Lee Ashbury
7	Birmingham, Alabama 35203-3314	7	
8	FOR THE DEFENDANT:	8	
9	Mr. Davidson French	9	
10	BASS, BERRY & SIMS	10	
11	Attorneys at Law	11	
12	315 Deaderick Street, Suite 2700	12	
13	Nashville, Tennessee 37238-3001	13	
14	ALSO PRESENT: Mr. Daniel Watson	14	
15		15	
16	*****	16	
17		17	
18	EXAMINATION INDEX	18	
19	MARGARET ANN CARTER	19	
20	BY MR. FRENCH..... 6	20	
21	BY MR. SAXON..... 100	21	
22	BY MR. FRENCH..... 101	22	
23	EXHIBIT INDEX	23	
	PAGE		
	Defendant		
	1 Job description for charge nurse 17		
	(Index continued on next page)		

Page 5

1 STIPULATIONS

2 It is hereby stipulated and agreed by and

3 between counsel representing the parties that the

4 deposition of MARGARET ANN CARTER is taken pursuant

5 to the Federal Rules of Civil Procedure and that

6 said deposition may be taken before Lyn Daugherty,

7 Certified Shorthand Reporter, and Commissioner for

8 the State of Alabama at Large, without the

9 formality of a commission, that objections to

10 questions other than objections as to the form of

11 the question need not be made at this time but may

12 be reserved for a ruling at such time as the said

13 deposition may be offered in evidence or used for

14 any other purpose by either party provided for by

15 the Statute.

16 It is further stipulated and agreed by and

17 between counsel representing the parties in this

18 case that the filing of said deposition is hereby

19 waived and may be introduced at the trial of this

20 case or used in any other manner by either party

21 hereto provided for by the Statute regardless of

22 the waiving of the filing of the same.

23 It is further stipulated and agreed by and

Page 6

1 between the parties hereto and the witness that the

2 signature of the witness to this deposition is

3 hereby waived.

4 *****

5 MARGARET ANN CARTER

6 The witness, after having first been duly sworn

7 to speak the truth, the whole truth and nothing but

8 the truth testified as follows:

9 EXAMINATION

10 BY MR. FRENCH:

11 Q. Would you state your full name, please.

12 A. Margaret Ann Carter.

13 Q. Ms. Carter, my name is Davidson French.

14 I'm here on behalf of Dialysis Clinic,

15 Inc. I'm going to ask you a series of

16 questions to find out about the lawsuit

17 that you have filed.

18 A. Yes, sir.

19 Q. If I ask you a question that you don't

20 understand, just tell me that you don't

21 understand it; okay?

22 A. Okay.

23 Q. If it's not clear, tell me it's not clear.

Page 7

1 If I say something that you think is not

2 accurate, I hope that you'll say that's not

3 the way it happened, that's not accurate.

4 A. Okay.

5 Q. I want to be on the same page with you.

6 This is my one chance to really understand

7 the nature of your lawsuit and find out why

8 you believe that you've been discriminated

9 against; all right?

10 A. Okay.

11 Q. If you ever need to take a break, please

12 just let us know and we'll take a break.

13 A. Sure. Thank you.

14 Q. What is your -- What was your maiden name?

15 A. Carter is my maiden name.

16 Q. Have you ever been married?

17 A. Yes, sir.

18 Q. What was your husband's name?

19 A. Hinson, H-I-N-S-O-N.

20 Q. How long were you married to Mr. Hinson?

21 A. Approximately three to four years.

22 Q. Are you divorced?

23 A. Yes.

Page 8

1 Q. When did you get divorced?

2 A. In '99, 1999.

3 Q. What's your current address?

4 A. 1824 Fitzpatrick Road, Fitzpatrick,

5 Alabama, which is Bullock County.

6 Q. And how long have you lived in Fitzpatrick?

7 A. Since May 2000.

8 Q. Where did you live prior to that?

9 A. I lived with my mother for approximately

10 six or eight months until I bought my --

11 got my double-wide trailer. Do you want to

12 go back further than that or --

13 Q. Where did you live with your mother?

14 A. In Union Springs.

15 Q. And how about right before that where did

16 you live?

17 A. I was in Florida for a year doing --

18 learning acute dialysis, doing acute

19 dialysis and then I moved back to --

20 Q. So that was before the year 2000?

21 A. Correct.

22 Q. Do you have any children?

23 A. No, sir.

Page 9

1 Q. Any siblings?
 2 A. One brother and one sister.
 3 Q. Do they live in Alabama?
 4 A. My sister lives in Union Springs, Alabama.
 5 Q. What is her name?
 6 A. Mary Jane Tompkins without an H.
 7 Q. And are you a member of any churches?
 8 A. I was raised catholic. As a matter of fact
 9 across the street at St. Paul's Cathedral.
 10 I'm originally from Birmingham. We all
 11 are. There's a church in Union Springs I
 12 don't go to too much because I work -- my
 13 working schedule. But St. Pius.
 14 Q. St. Pius?
 15 A. Uh-huh (positive response).
 16 Q. How long have you been a member of
 17 St. Pius?
 18 A. I guess since we moved to Bullock County
 19 from here. 20, 30 years on and off.
 20 Q. Did you graduate high school?
 21 A. Yes, sir.
 22 Q. What year and what high school?
 23 A. It was in 1968 and it was Phillips High

Page 10

1 School here in Birmingham.
 2 Q. Any formal education after high school?
 3 A. I had two years junior college and then I
 4 had two years of nursing, ASN degree.
 5 Q. Where did you go to junior college?
 6 A. I went to Jefferson State here in
 7 Birmingham as a junior college and then I
 8 went to Troy State in Montgomery.
 9 Q. Did you get an associate's degree?
 10 A. For nursing, yes.
 11 Q. And then you said there was two years of
 12 ASN?
 13 A. That was my nursing, uh-huh (positive
 14 response). I just went two years junior
 15 college. I didn't graduate from there. I
 16 didn't finish. I went roughly two years.
 17 Q. Where did you get your nursing degree?
 18 A. Troy State in Montgomery.
 19 Q. And when did you get that?
 20 A. I believe it was 1983.
 21 Q. If you would, could you quickly run through
 22 your employment history, where you
 23 worked --

Page 11

1 A. Sure.
 2 Q. -- after your nursing degree..
 3 A. I worked Bullock County Hospital in Union
 4 Springs.
 5 Q. What was your position there?
 6 A. I was 11 to 7 charge.
 7 Q. A charge nurse?
 8 A. Uh-huh (positive response). And worked ER
 9 too. I worked -- Let's see. I went to the
 10 VA hospital and did some psychiatric
 11 nursing. And I went to Texas, Houston,
 12 Texas. I moved out there because my cousin
 13 lived out there. Anyway, I went out there
 14 and I did neurology nursing. I worked on
 15 the neurology floor. My sister became
 16 sick. I moved back home. I worked at Edge
 17 Regional in Troy until dialysis -- I was
 18 interested in dialysis from Texas. When I
 19 came home, there was a dialysis clinic in
 20 Troy. That's where Edge Hospital is. And
 21 I got a position in dialysis and that's
 22 basically where I stayed. And that was
 23 with BMA at the time.

Page 12

1 Q. And when was that?
 2 A. Let's see. I've been in dialysis -- Let's
 3 see. At that point it was probably -- I
 4 would have to look back on my resume as
 5 exactly the year I started dialysis
 6 nursing. I was with BMA slash Fresenius
 7 for about 11 years.
 8 Q. What does BMA stand for?
 9 A. Biomedical. And then Fresenius bought them
 10 out.
 11 Q. Biomedical Associates?
 12 A. Uh-huh (positive response). I believe
 13 that's correct.
 14 Q. I believe you mentioned that you were in
 15 Florida for a while?
 16 A. Correct.
 17 Q. How long did you live in Florida?
 18 A. One year.
 19 Q. Were you a nurse in Florida?
 20 A. Yes. I was doing acute nursing in the
 21 hospital, which is different than chronic
 22 care in a clinic. I had opportunity to go
 23 down there and learn acute dialysis.

Page 13

1 Q. What was the job you held immediately
2 before DCI?
3 A. It would be the Florida job in Fort Walton
4 Beach.
5 Q. You came back from Florida and your first
6 job back in Alabama was with DCI?
7 A. Correct. They had an opening. That's why
8 I came on back. They had an opening there
9 at the clinic.
10 Q. And you worked at DCI until July of '05?
11 A. Correct.
12 Q. And in August of '05 you got a job with BMA?
13 A. Uh-huh (positive response). Back with BMA
14 again.
15 Q. And you worked in Tuskegee, Alabama?
16 A. Correct.
17 Q. How far away is Tuskegee from where you
18 live?
19 A. It's all back roads, little old two by four
20 roads. It's probably about 25, 28 miles.
21 Q. And you worked there through March of '07?
22 A. Yes.
23 Q. And then after that beginning in April you

Page 14

1 got a job with DaVita Dialysis?
2 A. Correct.
3 Q. And you worked there until May of '07?
4 A. Correct.
5 Q. And after that you got a job with hospice?
6 A. Alacare Hospice.
7 Q. Alacare Hospice?
8 A. Uh-huh (positive response).
9 Q. And you were a case manager with them?
10 A. Correct.
11 Q. Are you still working with Alacare Hospice?
12 A. Yes. But I did leave them briefly. I
13 thought I was going to go to work at
14 Bullock County Correctional Facility
15 because that would put me back closer to my
16 mother, but I couldn't work in a prison. I
17 tried it and Alacare wanted me back, so I
18 went back to Alacare.
19 Q. And what is your current rate of pay with
20 Alacare?
21 A. It's right -- It's like 27.95 an hour.
22 Q. Do you have benefits?
23 A. Oh, yes. I have -- I have benefits except

Page 15

1 for short-term disability. I've been
2 denied that because of my heart problem.
3 Q. You're not covered under their short-term
4 disability plan?
5 A. Correct.
6 Q. Do you have a retirement plan with Alacare
7 Hospice?
8 A. I haven't been there long enough to do
9 anything like that.
10 Q. Do you know when you become eligible to
11 participate in that plan?
12 A. No, I don't.
13 Q. Are you interested in participating in that
14 plan?
15 A. Sure. Yes.
16 Q. Now, you were vested in the retirement plan
17 with DCI; correct?
18 A. Correct.
19 Q. Do you know what happened -- Are the
20 assets -- Are the funds that were invested
21 through that plan, do you still have them
22 in a --
23 A. That still remains as it was the day I

Page 16

1 left.
2 Q. You haven't withdrawn any funds?
3 A. No, sir.
4 Q. How did you find out about the opportunity
5 with DCI?
6 A. I think there was an ad in the paper and I
7 talked to my sister and I called. And I
8 knew Denise. We knew each other growing
9 up. I mean, we weren't like friends, but
10 we knew who each other were. And I called
11 and talked to her.
12 Q. Denise Damron?
13 A. Yes, sir.
14 Q. And what did she tell you?
15 A. To come on up for an interview and I did
16 and I got the job.
17 Q. Do you recall when you started?
18 A. Let's see. I was in Florida -- Let me
19 think a minute. I believe it was May
20 2000. May 2000.
21 Q. Were you hired as a charge nurse?
22 A. Basically I was a floor nurse and then I
23 moved up to charge.

Page 17

1 Q. Within a year did you become a charge
2 nurse?
3 A. I would think that would be fair, yeah.
4 MR. FRENCH: Could we mark this as
5 Exhibit 1, please.
6 (Defendant's Exhibit 1 was marked
7 for identification.)
8 Q. All right. Let me hand you a document
9 that's been marked Exhibit 1. It's a job
10 description for the charge nurse position.
11 If you could review that and tell me if you
12 recognize it.
13 (Brief pause.)
14 A. Yes, sir.
15 Q. You do recognize it?
16 A. After -- Yes. It's been a long time, but
17 yes.
18 Q. Is that the job description for the charge
19 nurse position that you held at DCI?
20 A. Basically, yes, sir.
21 Q. And on the last page, the highlighted
22 portion under work hours --
23 A. Yes, sir.

Page 18

1 Q. -- do you see that section?
2 A. Uh-huh (positive response). Yes.
3 Q. Was that your understanding of DCI's policy
4 when you were employed with them?
5 A. Yes, sir. But also -- I was also aware the
6 one above that one in physical demands,
7 too, that reasonable accommodations may be
8 made.
9 Q. Did you ever ask for reasonable
10 accommodations?
11 A. Yes, sir, I did.
12 Q. And what reasonable accommodations did you
13 ask for?
14 A. Are you referring to when I had my heart
15 attack? That's the only time I have is
16 when I had my heart attack.
17 Q. I was referring to any time. What
18 accommodation did you ask for when you had
19 a heart attack?
20 A. My physician thought it best that I work
21 less hours for a couple of weeks so I could
22 ease back into the situation. I was very
23 nervous and upset and worried about my

Page 19

1 health, and he just thought that it would
2 be best if I worked lighter hours just for
3 a couple of weeks and then I could resume
4 full hours.
5 Q. And who did you have that -- Did you
6 discuss that with somebody at DCI?
7 A. Yes, I did.
8 Q. With whom did you discuss that?
9 A. Karen Hamilton.
10 Q. And what did she tell you?
11 A. Do you want just basically what she told
12 me, or do you want the conversation in
13 general? What do you want from me?
14 Q. I'll take both of them.
15 A. Both of them. Okay. I'm sorry.
16 Q. That's okay.
17 A. When I received that I could come back to
18 work and was telling her that, you know, I
19 needed to work maybe some eight-hour shifts
20 for two or three days a week just for a
21 couple of weeks, the doctor's office sent a
22 fax stating that, but the receptionist at
23 the office made a mistake in the fax. I

Page 20

1 contacted Karen back, told her that it was
2 a mistake, because she had just eight-hour
3 work schedule, eight-hour shifts.
4 Q. Who just had eight-hour work shifts?
5 A. The lady that typed up the fax with
6 Dr. Domingo. Bertha Tolliver I believe her
7 name was. I told her that I was going to
8 go up there and get it straight. And I
9 told her on good faith, professional to
10 professional that it was just eight-hour
11 shifts for like two to three days a week
12 for two weeks.
13 Q. When you say you told her, who are you
14 talking about?
15 A. Karen Hamilton. Anyway, we kept back and
16 forth. I talked to Karen several times
17 about this. And finally the last time I
18 talked to her basically she said, well, if
19 I had to work shorter shifts for the first
20 two weeks, just wait and come back to work
21 in two weeks. And that's when I told her
22 it didn't matter if I came back to work in
23 two weeks or two months, I would still need

Page 21

1 time to get my feet wet, to readjust to the
2 schedule and all like that. She
3 continued -- I remember at some point
4 asking her does Lee know about this,
5 corporate. I was told twice -- two
6 different times that there was nothing we
7 can do for you. It wasn't nothing that she
8 could do. She made the statement a couple
9 of times there's nothing we can do to help
10 you. So ...
11 Q. You just mentioned somebody named Lee.
12 A. Ashbury. He was her boss, I guess.
13 Q. Was he the administrator?
14 A. I believe so. Montgomery.
15 Q. And Karen Hamilton was the nurse manager?
16 A. Nurse manager.
17 Q. Was she the highest ranking person at the
18 Union Springs clinic?
19 A. Yes, sir.
20 Q. Lee Ashbury did not work at the Union
21 Springs clinic, did he?
22 A. No, sir. He was in Montgomery.
23 Q. But Ms. Hamilton reported to Mr. Ashbury?

Page 22

1 A. From my understanding, yes, sir.
2 Q. And Mr. Ashbury is deceased as far as you
3 know?
4 A. Uh-huh (positive response).
5 (Defendant's Exhibit 2 was marked
6 for identification.)
7 Q. Let me hand you another document that's
8 been marked Exhibit Number 2 and ask if
9 that's your signature at the bottom of it.
10 A. Yes, sir. That's my signature.
11 Q. Do you recall getting a copy of the DCI
12 benefits package book?
13 A. Yes, sir.
14 Q. Do you still have a copy of that?
15 A. My -- Mr. Saxon has a copy of it.
16 Q. I think we sent Mr. Saxon a copy. Did you
17 give Mr. Saxon a copy?
18 A. Yes, sir. I gave him -- I brought one to
19 him.
20 MR. FRENCH: If we could mark this
21 document as Exhibit 3, please.
22 (Defendant's Exhibit 3 was marked
23 for identification.)

Page 23

1 Q. Let me ask you to review Exhibit 3 and tell
2 me if you recognize it.
3 A. Yes, sir.
4 Q. Can you tell me what that is?
5 A. Well, it's just about the family medical
6 leave policy.
7 Q. Was it Dialysis Clinic, Inc.'s family
8 medical leave policy?
9 A. Yes, sir.
10 (Defendant's Exhibit 4 was marked
11 for identification.)
12 Q. Let me hand you a document that's been
13 marked Exhibit 4 and ask if you recognize
14 that document.
15 A. Yes, sir.
16 Q. To the best of your recollection, was that
17 DCI's personal leave policy while you were
18 an employee?
19 A. To the best of my recollection, yes, sir.
20 Q. When you started at DCI, who was your
21 immediate supervisor?
22 A. Denise Damron.
23 Q. And she was the nurse manager?

Page 24

1 A. Uh-huh (positive response). Yes, sir.
2 Q. Who followed Denise Damron as the nurse
3 manager?
4 A. When Denise left, it was Karen Hamilton.
5 Q. Did you ever have an immediate supervisor
6 other than Ms. Damron or Ms. Hamilton?
7 A. No, sir.
8 Q. So as of May 2005 Karen Hamilton was your
9 immediate supervisor?
10 A. Yes, sir.
11 Q. Was Denise Damron still working with DCI at
12 that point?
13 A. No, sir.
14 Q. Do you know why she left DCI?
15 A. Her and her family moved to Montgomery and
16 I believe -- and she got a job in
17 Montgomery. That's about all I know.
18 Q. Have you had any contact with Ms. Damron
19 since your employment ended?
20 A. The only -- I've seen her mother because
21 they're from Union Springs. I've seen her
22 mother and asked about her, but I have not
23 personally seen Denise.

Page 25

1 Q. Have you had any conversations with
 2 Ms. Damron since your employment ended?
 3 A. No, sir.
 4 Q. Have you had any conversations with Karen
 5 Hamilton since your employment ended?
 6 A. No, sir.
 7 Q. Have you had any conversations with any
 8 employee of DCI since your employment
 9 ended?
 10 A. Debbie Tyndal. She was a patient care
 11 tech. I talked to her. That was basically
 12 the only one I can recall talking to at
 13 this point that was still there when I
 14 left.
 15 Q. Did you discuss your lawsuit with
 16 Ms. Tyndal?
 17 A. No, sir.
 18 Q. You just discussed personal issues?
 19 A. We discussed -- The only thing that we
 20 really talked about -- Well, we're friends,
 21 so we were chitchatting. But the 13-hour
 22 shifts and I told her that, you know, I
 23 couldn't work that apparently and I

Page 26

1 couldn't come back because I wasn't going
 2 to work -- wasn't going to be able to work
 3 two weeks with an altered schedule. You
 4 know, that was about all. I didn't say
 5 anything about a lawsuit. You know, we
 6 were just talking about everything in
 7 general about my heart attack and, you
 8 know, trying to work and all like that.
 9 Nothing specific about anything like that.
 10 Q. Have you remained in touch with
 11 Ms. Tyndal?
 12 A. We talk occasionally.
 13 Q. But nothing about your lawsuit?
 14 A. She's asked about what's going on and I
 15 really haven't given her any information.
 16 I mean, you know, I'm not -- I don't talk
 17 about it.
 18 Q. How often did you see Mr. Ashbury while you
 19 worked at Union Springs? Would he come on
 20 a regular basis?
 21 A. He was kind of in and out sporadically.
 22 Just at different times. He wasn't there
 23 much. We might see him once every two or

Page 27

1 three months and then we might see him in a
 2 month and then it might be three months.
 3 You know, it was just kind of sporadic.
 4 Q. Did you ever have any problems or
 5 disagreements or conflicts with
 6 Ms. Damron? Anything significant?
 7 A. I'm trying to think. With us personally?
 8 You mean nurse to nurse?
 9 Q. Anything. Any significant disagreements or
 10 conflicts?
 11 A. No, sir. Not that I know of, you know,
 12 just trying to sit here and recall, no,
 13 sir.
 14 Q. I appreciate that. How about with
 15 Ms. Hamilton, any problems, disagreements
 16 or conflicts with Ms. Hamilton?
 17 A. I guess the only thing would be about her
 18 trying -- you know, when I was trying to
 19 get back to work after my heart attack,
 20 just, you know, telling her it wasn't fair,
 21 that I had been there for five years and I
 22 needed some help, you know.
 23 Q. Did you get the sense that Ms. Hamilton was

Page 28

1 making all the decisions regarding your
 2 employment, or do you think she was talking
 3 with somebody else?
 4 A. I was led -- When I asked about the
 5 corporate or Lee know about everything,
 6 when she made the remark that there's
 7 nothing we can do to help you, it was my
 8 understanding that everybody knew what was
 9 going on, that there -- that I was trying
 10 to just work eight-hour shifts for the
 11 first couple of weeks until I can get back
 12 on my feet all the way.
 13 Q. Would you --
 14 A. And then when I got that letter from Lee, I
 15 didn't know then.
 16 Q. But based on your experience at DCI,
 17 dealing with the employment of an RN, would
 18 you have expected that Mr. Ashbury would be
 19 involved in significant decisions?
 20 MR. SAXON: Object to the form to
 21 the extent it calls for
 22 speculation. You can answer.
 23 A. On a guess? I'm sure he had decisions that

Page 29

1 he did make that overrode maybe what Karen
2 did or Denise, you know, in that aspect. I
3 don't -- I really -- you know, that's the
4 best I could answer that right now at this
5 point.
6 Q. While you worked at DCI, did you ever see
7 any other employees who took leaves of
8 absence for medical reasons?
9 A. Yeah. There were people that like pulled
10 muscles in their back, had to be off, come
11 back on light duty and, you know, things
12 like that. Sure.
13 Q. Do you recall anything happening to any of
14 those employees that you thought was
15 retaliatory?
16 A. I really don't know how I could answer
17 that. I don't -- you know, I didn't get
18 into their business. So, I mean, you
19 know --
20 Q. All those employees who took a leave of
21 absence, did they return to work after
22 their leave of absence?
23 A. To the -- Yes.

Page 30

1 Q. Do you recall if they came back to their
2 former position?
3 A. I wonder -- I honestly believe that Hazel
4 Goshay came back on light duty. I'm
5 thinking Bobby Streeter might have had an
6 incident something happened to him where he
7 had to do light duty. That's the only two
8 I can recall at this moment. That's all I
9 can recall at the moment.
10 Q. Do you recall what Hazel Go --
11 A. Goshay, G-O-S-H-A-Y, Goshay.
12 Q. Do you recall what her problem was, what
13 caused her to need a leave of absence?
14 A. I'm thinking it was her foot or her back or
15 both.
16 Q. What was her position?
17 A. She was part of our reprocessing tech and
18 helped Bobby Streeter and then she became a
19 floor person eventually later, a floor -- a
20 patient care person.
21 Q. A patient care technician?
22 A. Uh-huh (positive response). Correct. But
23 that was after I had left.

Page 31

1 Q. What was Bobby Streeter's position?
2 A. Well, he did all the ordering and machine
3 upkeep and things like that.
4 Q. Another technical position?
5 A. Yes, sir.
6 Q. Do you recall what his problem was that
7 caused him to need a leave of absence?
8 A. I would have to guess on that one.
9 Q. Well, don't guess. Do you remember?
10 A. No. I can't be specific, no.
11 Q. Did Mr. Ashbury ever say anything to you
12 that made you think that he didn't like it
13 when people took leaves of absence?
14 A. No, sir.
15 Q. How about Ms. Hamilton, did she ever say
16 anything to you that made you think she
17 didn't like it when people took a leave of
18 absence?
19 A. Well, I mean, she was only DON or clinical
20 manager a short time before I had my heart
21 attack, so that would -- I really couldn't
22 honestly answer that yes or no because she
23 wasn't there long enough, you know, before

Page 32

1 I had my heart attack.
2 Q. But while she was there, did she ever say
3 anything that made you think that she
4 didn't like it when people took a leave of
5 absence?
6 A. To the best of my knowledge, I don't recall
7 anything.
8 Q. Did any other employees complain to you
9 about Lee Ashbury or Karen Hamilton?
10 A. Well, you know, nobody -- I guess, you
11 know, if you complain you complain to your
12 coworkers. Just trivial -- I mean, nothing
13 major. I can't even remember. You know,
14 just trivial things. Oh, so-and-so did
15 this and I didn't like it. You know, just
16 trivial things. Nothing major.
17 Q. You can't even remember anything today?
18 A. No. I mean, it's just trivial stuff.
19 (Defendant's Exhibit 5 was marked
20 for identification.)
21 Q. Let me hand you a document that's been
22 marked Exhibit 5 and ask if you recognize
23 that.

Page 33

1 A. Yes.
2 Q. Can you tell me what this is?
3 A. My fiance died.
4 Q. But this is a leave of absence form and you
5 requested time off when your fiance passed
6 away?
7 A. Yes.
8 Q. And it was January of '03?
9 A. Yes.
10 Q. Who did you talk to about needing a leave
11 of absence?
12 A. Denise Damron. She was wonderful.
13 Q. And did DCI approve this?
14 A. Yes.
15 Q. Do you know if Mr. Ashbury was involved?
16 A. No, I don't.
17 Q. Do you recognize the signature that's under
18 your signature?
19 A. No, I don't. It looks like it -- I don't
20 know what that is.
21 Q. Is that your signature at the bottom of the
22 page?
23 A. That's mine above it, yes.

Page 34

1 Q. And Ms. Damron was wonderful when you asked
2 her about this leave?
3 A. I took care of him, yes. He died of cancer.
4 Q. And how long were you off in January of
5 '03?
6 A. I was off for 30 days.
7 Q. Was that a personal leave of absence?
8 A. Yes, sir.
9 Q. I didn't mean to upset you.
10 A. I guess it was personal.
11 Q. I apologize for upsetting you.
12 A. That's all right. It's just very sensitive
13 still.
14 Q. I understand. Did you have any problems
15 related to that leave of absence?
16 A. No.
17 Q. Did you return to your former job at the
18 end of the leave?
19 A. Yes.
20 Q. Making the same amount of money?
21 A. Yes.
22 Q. Did anybody ever say or do anything to you
23 that made you think that they were unhappy

Page 35

1 that you took that leave?
2 A. No, sir.
3 (Defendant's Exhibit 6 was marked
4 for identification.)
5 Q. All right. Let me hand you a letter dated
6 January 6, 2003 that's been marked Exhibit
7 6 from Mr. Ashbury. Do you recall
8 receiving a copy of that letter?
9 A. Vaguely. I was just real upset then. I
10 vaguely remember something like that.
11 (Defendant's Exhibit 7 was marked
12 for identification.)
13 Q. Let me hand you a letter dated --
14 handwritten letter dated December 11, 2003
15 that I think you wrote. It's been marked
16 Exhibit 7. Do you recognize that document?
17 A. Yes, sir.
18 Q. Did you write this letter?
19 A. Yes.
20 Q. What prompted you to write this letter?
21 A. Nerves, I guess. He was very ill and I
22 was -- I just didn't want to hinder the
23 facility, you know, with what was going

Page 36

1 on. I was confused. He was very ill.
2 Q. Let me ask you, the document that has been
3 marked Exhibit 5 references a leave of
4 absence in January of 2003. Exhibit 6
5 references a leave in January of 2003.
6 Exhibit 7 is dated December 11th of 2003.
7 A. (Witness nods head).
8 Q. So he was still living at that time but was
9 very sick?
10 A. He died December -- He died December the
11 29th.
12 Q. So your recollection is that you wrote this
13 resignation because of your concern for
14 your fiance?
15 A. Yes. And I just didn't want to hinder my
16 patients. I care a lot about my patients
17 and I just didn't want to, you know, be
18 there if I couldn't be there 100 percent.
19 And then John, my fiance, talked to me. We
20 had a long talk and he said don't do it and
21 I didn't.
22 Q. Your fiance talked you out of resigning?
23 A. Yes.

Page 37

1 Q. Did Denise Damron try to talk you out of
 2 resigning?
 3 A. She didn't want me to, but she understood
 4 what I was going through. She told me to,
 5 you know, just -- and I went home and, like
 6 I said, I talked to John and we had a long
 7 talk and Denise, of course, she was
 8 wonderful with me. She said that she would
 9 work with me any way she could.
 10 Q. Did you actually give this letter to
 11 Ms. Damron?
 12 A. I think I did. It's -- That's such a blur
 13 right then in my life. I assume I did.
 14 Y'all got it, so I assume I gave it to
 15 somebody.
 16 Q. When you went back to Ms. Damron and told
 17 her you changed your mind, did she object
 18 or have any problem with that?
 19 A. No. She was glad.
 20 Q. All right. Let me ask you about the last
 21 sentence of this letter. It says, I will
 22 submit a list of reasons for my
 23 resignation. I am unable to do so at this

Page 38

1 time due to my total disappointment.
 2 A. Yes. With myself.
 3 Q. You were disappointed with yourself?
 4 A. (Witness nods head).
 5 Q. You were just overburdened at that point?
 6 A. Yes, sir. As far as I can remember. Like
 7 I said, that was just a very confusing time
 8 for me right then.
 9 Q. All right. You returned -- You were able
 10 to return to your job -- same job as a
 11 charge nurse --
 12 A. Yes, sir.
 13 Q. -- after you had told her you had changed
 14 your mind?
 15 A. Yes, sir.
 16 Q. And your pay didn't change?
 17 A. No, sir.
 18 Q. And you continued to work throughout that
 19 year?
 20 A. Yes, sir.
 21 Q. Were there any problems that you recall --
 22 significant problems at work in 2004?
 23 A. Other than just trivial complaints about

Page 39

1 this and that. I mean, nothing specific.
 2 You know, I was happy there. I mean, you
 3 know ...
 4 Q. At some point did you need to request a
 5 leave of absence because of a problem with
 6 your feet?
 7 A. I had to have surgery.
 8 Q. All right. What was the surgery for?
 9 A. He had to take out some bone and I had
 10 spurs and it was inflamed and all. And I
 11 had to have surgery on my foot and stay off
 12 of it two or three weeks, however long it
 13 was.
 14 Q. Who did you tell that you were going to
 15 have surgery and needed time off?
 16 A. Whoever -- I guess it was -- Let's see. I
 17 guess it was Denise or it might have been
 18 Karen at that point. I'm confused at that
 19 point now. I can't even remember dates. I
 20 think it was Denise that was still there.
 21 Q. Did they give you any trouble about taking
 22 time off?
 23 A. No, sir.

Page 40

1 MR. FRENCH: If we could mark that
 2 as Exhibit 8, please.
 3 (Defendant's Exhibit 8 was marked
 4 for identification.)
 5 Q. Do you recall receiving a copy of Exhibit
 6 8?
 7 A. Yes, sir. I vaguely remember that.
 8 Q. If you look at the end of page 2 under the
 9 signature line.
 10 A. Uh-huh (positive response).
 11 Q. Do you see where it says PLA note?
 12 A. Uh-huh (positive response).
 13 Q. I assume that's --
 14 A. Yes, sir.
 15 Q. -- PL Ashbury, PLA?
 16 A. I would assume that maybe, too, I guess.
 17 Q. Would you take a minute or two and read
 18 those two short paragraphs for me. Not out
 19 loud. Just to yourself. I wanted to ask
 20 you if any of that information is
 21 incorrect.
 22 (Brief pause.)
 23 Q. To the best of your recollection is that

<p style="text-align: right;">Page 41</p> <p>1 information accurate?</p> <p>2 A. To the best of my recollection, yes.</p> <p>3 Q. When you came back from the leave of</p> <p>4 absence in December of '04, did you come</p> <p>5 back to your same job?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Same pay?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Any change in benefits?</p> <p>10 A. No, sir.</p> <p>11 Q. Any change in your hours or</p> <p>12 responsibilities?</p> <p>13 A. No, sir.</p> <p>14 Q. Anybody ever make any negative comments to</p> <p>15 you about taking that FMLA leave in 2004?</p> <p>16 A. No, sir.</p> <p>17 Q. Do you recall any significant problems at</p> <p>18 work between December of '04 and May of</p> <p>19 '05?</p> <p>20 A. All right. Now, December '04 to May '05?</p> <p>21 Q. Right. That's when you came back from your</p> <p>22 foot surgery leave and then you had your</p> <p>23 heart attack in May of '05.</p>	<p style="text-align: right;">Page 43</p> <p>1 Q. -- issues at work that you remember?</p> <p>2 A. Not that I can recall.</p> <p>3 Q. As of May of 2005 what was your work</p> <p>4 schedule?</p> <p>5 A. Repeat that, please.</p> <p>6 Q. As of May of 2005 what was your work</p> <p>7 schedule?</p> <p>8 A. May 2005? Are you talking about when I had</p> <p>9 my heart attack? That's when I had my</p> <p>10 heart attack.</p> <p>11 Q. Yes, ma'am. Right before your heart</p> <p>12 attack.</p> <p>13 A. I was working as needed when needed. I was</p> <p>14 working 10-, 11-hour shifts four days a</p> <p>15 week. If they needed me an extra day, I'd</p> <p>16 work. I always volunteered to work if they</p> <p>17 were short. And when Denise was out or</p> <p>18 anything, I was always there.</p> <p>19 Q. But what was the average or the normal work</p> <p>20 schedule? Was it four days a week?</p> <p>21 A. Four days a week 10 to -- yeah. Four days</p> <p>22 a week.</p> <p>23 Q. 10 hour --</p>
<p style="text-align: right;">Page 42</p> <p>1 A. Now, I had my foot surgery. But, now, that</p> <p>2 next hospitalization was not due to my</p> <p>3 foot. I had a partial blockage. I became</p> <p>4 extremely sick at work and ended up in the</p> <p>5 emergency room.</p> <p>6 Q. You tried to come back?</p> <p>7 A. I did come back for however long.</p> <p>8 Q. A day or so?</p> <p>9 A. Right. And then I became violently ill at</p> <p>10 work. Throwing up. Could not stop</p> <p>11 throwing up. My sister came and got me and</p> <p>12 took me to the emergency room, which is</p> <p>13 across the street. My stomach was</p> <p>14 ulcerating and it ulcerated at the bottom</p> <p>15 of the stomach where it goes into the</p> <p>16 intestines and I had a partial blockage.</p> <p>17 So they hospitalized me and I was under a</p> <p>18 doctor's care trying to get my stomach and</p> <p>19 all back in shape.</p> <p>20 Q. After you returned to work from that leave</p> <p>21 until your heart attack were there any</p> <p>22 problems or --</p> <p>23 A. Not that I can recall.</p>	<p style="text-align: right;">Page 44</p> <p>1 A. 10 hours until whenever.</p> <p>2 Q. I understand you would work over if the</p> <p>3 patient was still there and needed ...</p> <p>4 A. (Witness nods head).</p> <p>5 Q. But the normal expectation was four days a</p> <p>6 week, 10 hours a day?</p> <p>7 A. Correct.</p> <p>8 Q. Who were the other RNs at that time?</p> <p>9 A. Bertha Baker. I think Teresa Haskell was</p> <p>10 still there. Yeah, I believe she was. Me</p> <p>11 and, of course, Karen Hamilton. That's all</p> <p>12 I can remember at this moment.</p> <p>13 Q. All right. Did all of the RNs work four</p> <p>14 days a week 10 hours a day?</p> <p>15 A. To the best of my knowledge, yes.</p> <p>16 Q. How about the patient care technicians, did</p> <p>17 they mirror y'all's schedule --</p> <p>18 A. Yes, sir.</p> <p>19 Q. -- four days a week, 10 hours a day?</p> <p>20 A. Yes, sir.</p> <p>21 Q. Do you know who set the work schedules for</p> <p>22 the RNs?</p> <p>23 A. Well, when I started there it was always</p>

Page 45

1 four days a week 10 hours -- what I can
 2 remember. And then the schedule was done
 3 by the clinical manager slash DON as far as
 4 weekly schedules.
 5 Q. And as of May of '05 was that Karen
 6 Hamilton?
 7 A. Yes, sir.
 8 Q. She set the weekly schedules?
 9 A. To my knowledge, yes, sir.
 10 Q. And before that was Denise Damron in charge
 11 of setting the schedule?
 12 A. Correct.
 13 Q. And I think you just told me that when you
 14 started you worked four days a week?
 15 A. Yes, sir.
 16 Q. Were there ever any changes to your
 17 schedule prior to your heart attack? Did
 18 you ever go to five days a week or three
 19 days a week?
 20 A. Just when I'd work extra, you know, and
 21 they needed an RN I'd volunteer when I
 22 could.
 23 Q. But from the time you started until the

Page 46

1 time you had your heart attack the normal
 2 workweek was four days a week, 10 hours a
 3 day?
 4 A. To the best of my knowledge, yes, sir.
 5 Q. Before you had your heart attack, did you
 6 ever hear any discussion or did you ever
 7 receive any communication that DCI was
 8 considering changing the work schedule?
 9 A. No, sir.
 10 Q. You didn't find out about a change to your
 11 work schedule until you were on a leave of
 12 absence?
 13 A. Correct.
 14 Q. And I think as we've alluded to you had a
 15 heart attack on May 9th, 2005 that required
 16 hospitalization?
 17 A. Yes, sir.
 18 Q. And the doctors decided that you should not
 19 go back to work; correct?
 20 A. Now, what do you mean by do not go back to
 21 work? I mean, could you explain that a
 22 little bit what you mean?
 23 Q. You weren't able to go back to work that

Page 47

1 day or the next day; right?
 2 A. Correct.
 3 Q. In fact, they took you out of work for
 4 several weeks?
 5 A. Yes, sir.
 6 Q. And as of May 9th, 2005 you were still in
 7 the charge nurse position?
 8 A. Yes, sir.
 9 Q. And your immediate supervisor at that time
 10 was Karen Hamilton?
 11 A. Yes, sir.
 12 Q. And the administrator at that time was Lee
 13 Ashbury?
 14 A. Yes, sir.
 15 (Defendant's Exhibit 9 was marked
 16 for identification.)
 17 Q. Here's a copy of the complaint that you
 18 filed in this lawsuit. It's marked Exhibit
 19 9. And if you'd turn to page 3, please,
 20 ma'am. And we've covered much of this, but
 21 I want to just make sure that this
 22 information is accurate. Would you review
 23 paragraph 10 through paragraph 14 on page

Page 48

1 3 --
 2 A. Okay.
 3 Q. -- and tell me if anything in those
 4 paragraphs is not correct.
 5 A. That's correct.
 6 Q. All of the information in paragraph 10
 7 through paragraph 14 is correct?
 8 A. To the best of my knowledge at this point,
 9 yes.
 10 Q. On page 4, paragraph number 15, do you see
 11 that?
 12 A. Yes, sir.
 13 Q. It says that you updated defendant
 14 regarding your condition every week. Who
 15 did you speak to about your condition while
 16 you were out?
 17 A. While I was out I would talk to Karen
 18 Hamilton. If she was busy, I would talk to
 19 the secretary, Carolyn Green.
 20 Q. Do you know who Ms. Green reported to?
 21 A. To Karen.
 22 Q. And when you spoke to Ms. Hamilton while
 23 you were out, what did she tell you?

Page 49

1 A. I would just briefly tell her that, you
 2 know, I was getting better and things were
 3 looking better. And I was just giving her
 4 a weekly report or however they wanted me
 5 to call is how I would call, you know.
 6 Q. Do you recall any of her responses to that
 7 information?
 8 A. Basically just, you know, keep us posted,
 9 you know.
 10 Q. All right. Paragraph 22 on page 4 --
 11 A. Yes, sir.
 12 Q. -- do you see that one?
 13 A. Yes, sir.
 14 Q. It says, Ms. Carter informed Dr. Domingo's
 15 office of the mistake and a corrected
 16 letter was faxed to defendant. Do you know
 17 who faxed that letter?
 18 A. To my knowledge it was probably the
 19 receptionist at Dr. Domingo's office, which
 20 would have been Bertha Tolliver.
 21 Q. Really what I'm curious, how do you know it
 22 was faxed to them? Did somebody tell you
 23 that or were you there when it was faxed or

Page 50

1 did you talk to Karen Hamilton and she told
 2 you that she received a second fax? How
 3 did you know that a second letter was faxed
 4 to DCI?
 5 A. Because when I went up there and she wrote
 6 it out and I told her that was right and
 7 she was faxing it right then.
 8 Q. She told you that she was faxing it?
 9 A. Right.
 10 Q. Did you see her fax it?
 11 A. No, sir. I don't think I did, no.
 12 Q. This is just a lawyer being a lawyer just
 13 trying to make sure I know what -- I
 14 understand what you actually know. Did
 15 Karen Hamilton and you ever discuss this
 16 second letter that was faxed?
 17 MR. SAXON: The one referenced in
 18 paragraph 22?
 19 MR. FRENCH: Yes.
 20 A. As far as I'm aware, she was aware that
 21 there was an error and that the correct one
 22 was being faxed. And that's when she told
 23 me there was nothing they could do to help

Page 51

1 me. By what she was telling me, I was led
 2 to believe that she had all the faxes.
 3 Q. Okay. Based on a conversation that you had
 4 with Ms. Hamilton, you got the impression
 5 that she did receive this letter referenced
 6 in paragraph 22?
 7 A. Yes, sir.
 8 Q. During the -- any conversation that you had
 9 with Ms. Hamilton, did she tell you that
 10 she had received the fax referenced in
 11 paragraph 22?
 12 A. Just pointblank said I have the corrected
 13 fax?
 14 Q. Yes, ma'am.
 15 A. I don't recall at this time. I don't.
 16 Q. Well, all I'm trying to do -- It definitely
 17 was your impression that she had it --
 18 A. Correct.
 19 Q. -- but you don't know for sure if she did?
 20 A. Well, between Bertha, the receptionist at
 21 Dr. Domingo's office, telling me she faxed
 22 it and then me having the conversation with
 23 Karen, you know, yeah, I was a hundred

Page 52

1 percent sure that it was all out there, you
 2 know.
 3 Q. Okay. That's your impression. But you're
 4 not sure if she had that letter?
 5 A. Well, I don't -- I don't know how I could
 6 be sure than I took it to her myself. I
 7 don't understand --
 8 Q. That's my point. That's exactly how you
 9 could be sure.
 10 A. Yeah.
 11 Q. If you took it to her or if she said I got
 12 it or if you were there and you saw her
 13 looking at it.
 14 A. I remember I told her if I needed to I
 15 would hand deliver it, and I was told that
 16 wasn't necessary.
 17 Q. So you and Ms. Hamilton talked about
 18 this --
 19 A. The corrected fax.
 20 Q. -- fax was coming?
 21 A. Uh-huh (positive response). Yes. And I
 22 told her I would hand deliver it if
 23 necessary.

Page 53

1 Q. But did you ever have a conversation with
 2 her where she said, I got it, I have it
 3 right here?
 4 A. I don't recall at this time because the
 5 way -- I just don't recall right now.
 6 Q. All right. Now, we have talked a little
 7 bit about this, the conversations that you
 8 had with Ms. Hamilton about coming back to
 9 work. Do you recall when your doctor
 10 released you to return to work?
 11 A. I was trying to get back July the 23rd and
 12 I think -- I don't know what date that was
 13 on, but that's when I was trying to get
 14 back was when my leave was up.
 15 Q. Okay.
 16 A. He was aware of that, so ...
 17 Q. All right. It's your understanding that
 18 your leave was up July 23rd of 2005?
 19 A. Yes, sir.
 20 Q. And you were trying to come back as of that
 21 date?
 22 A. Correct.
 23 Q. What did your doctor -- Did your doctor

Page 54

1 release you to return to work?
 2 A. Yes, sir.
 3 Q. Was it to return to work light duty?
 4 A. For -- Instead of 13-hour shifts, he wanted
 5 me to work just some eight-hour shifts for
 6 the first couple of weeks.
 7 Q. Could you work three days a week eight
 8 hours a day --
 9 A. Correct.
 10 Q. -- or could you --
 11 A. Correct.
 12 Q. Did he tell you how many days a week you
 13 could work?
 14 A. Three.
 15 Q. All right. So did he tell you you should
 16 not work more than three?
 17 A. For the first couple of weeks that's all he
 18 wanted me to work.
 19 Q. So it was your understanding from your
 20 doctor that you could work three days a
 21 week eight hours per day?
 22 A. Correct.
 23 Q. Did he tell you why he thought you could

Page 55

1 only work that?
 2 A. He wanted me to ease -- He knew how
 3 stressful the job was and how long the
 4 hours were. I'd had trouble during my
 5 recuperation period. They thought I had
 6 another heart attack. It wasn't. It was
 7 medication. But I still had to go in and
 8 have more tests. I had to stop cardiac
 9 rehab because of it. He just didn't want
 10 me to get in the situation where I'd get
 11 sick again. He just wanted me to take my
 12 time.
 13 Q. Were you still on medication as of July 23,
 14 2005?
 15 A. I'm on basically the same medication now
 16 that I've been on.
 17 Q. What medication is that?
 18 A. I'm on two blood pressure pills, four
 19 cholesterol pills. I'm on a blood
 20 thinner -- two blood thinners. What else?
 21 Stomach pill, Prevacid. Nitroglycerin if I
 22 need it, which I haven't needed it in a
 23 couple of years. Do you want me to give

Page 56

1 you -- I have a list in my purse. Do you
 2 want it?
 3 Q. No. I don't need the exact list. But all
 4 of those medications were medications that
 5 had been prescribed to you as of July 23,
 6 2005?
 7 A. Basically things have been the same
 8 since -- They changed some before July the
 9 23rd because they had to change my
 10 medications. But since that point, yes, I
 11 have basically been on the same
 12 medications.
 13 Q. Were you taking any medication for
 14 depression as of July of '05?
 15 A. Correct. I was doing that. They had me on
 16 Wellbutrin.
 17 Q. Are you still taking something for
 18 depression?
 19 A. I came off of it. I started feeling bad.
 20 Dr. Domingo wanted to put me on another
 21 type of antidepressant. I got the
 22 prescription and I didn't fill it. I
 23 really just didn't want to depend on a

Page 57

1 medication. I really wanted to just try to
 2 get it together on my own. And so, no,
 3 right now I'm not taking anything. I don't
 4 feel like I need it now.
 5 Q. Good. When did you stop taking medication
 6 for depression?
 7 A. This would have to be a guess. I stopped
 8 it about a year ago and then maybe three or
 9 four months later I started taking it again
 10 for a couple of months and then I stopped
 11 it. That's just the best I can guess at
 12 that.
 13 Q. All right. Had you ever taken -- Prior to
 14 having your heart attack in 2005, had you
 15 ever taken any medication for depression or
 16 anxiety?
 17 A. I think I have at some point. But when or
 18 why or who -- No. I'm going to have to say
 19 no to that. Huh-uh (negative response).
 20 I'm going to have to say no to that. I've
 21 had something to help me sleep or something
 22 like that, you know, years ago, but
 23 nothing --

Page 59

1 not able to come back. But at the point at
 2 which you got released you started -- you
 3 had a conversation with Ms. Hamilton about
 4 my doctor has released me?
 5 A. Correct. Okay. That. Okay. I talked to
 6 her several times in that week prior to the
 7 23rd, July the 23rd trying to get
 8 everything situated so I could come back to
 9 work. I talked to her several times. I
 10 couldn't tell you how many. And each
 11 conversation was basically about I was well
 12 enough to come back to work, but I might
 13 not be able to work a full schedule at
 14 first, that kind of thing.
 15 Q. And what did she tell you?
 16 A. She said to give -- that she needed -- that
 17 I would need a doctor's statement and all
 18 like that before I could come back to
 19 work. Of course, I already knew that. And
 20 I told her no problem, that he was going to
 21 be -- you know, that's no problem, what
 22 else did I need to get or do or anything
 23 like that. Just getting an update, you

Page 58

1 Q. As of May of 2005 were you on any
 2 medications?
 3 A. May 2005?
 4 Q. Prior to your heart attack.
 5 A. All right. Let's see. Prior to my heart
 6 attack basically I was taking a blood
 7 pressure pill and my stomach pill and I
 8 think that was pretty much it. I was on
 9 one blood pressure pill and a stomach pill
 10 best of my knowledge.
 11 Q. All right. Just so I'm clear, you had a
 12 conversation -- Did you have more than one
 13 conversation with Ms. Hamilton about coming
 14 back to work?
 15 A. Oh, yes.
 16 Q. Can you tell me about each one of those
 17 conversations?
 18 A. Just pertaining about my work schedule
 19 coming back to work or from the time I was
 20 recuperating and --
 21 Q. Well, I understand that you kept her
 22 updated about what your condition was and
 23 the fact that you still -- you still were

Page 60

1 know, as to what I might need to do or
 2 whatever with the schedule and all like
 3 that.
 4 Q. Did she say you needed to do anything else?
 5 A. Well, at the point when I said I was only
 6 going to be able to work eight-hour shifts,
 7 that's when everything turned around.
 8 Q. Did you and Ms. Hamilton discuss the fact
 9 that the schedules had been changed to a
 10 three days per week 12 hours a day?
 11 A. It came up during that conversation. Now,
 12 she never informed me during my
 13 recuperation period that that was changed.
 14 Debbie Tyndal told me that that had
 15 changed. But no one officially notified
 16 me. And that's when I told her I just
 17 didn't know if I could work the 13-hour
 18 shifts -- you know, 12-, 13-hour shifts
 19 like that right off the bat coming back.
 20 Q. But you wouldn't have been able to work the
 21 old 10-hour shifts either, right?
 22 A. I don't know about that. If they had
 23 offered it, I might -- you know, I mean, I

Page 61

1 wanted my job, you know.
 2 Q. But what did the doctor say?
 3 A. He wanted me to work eight hours, and I was
 4 trying to go by what he thought was best
 5 for me.
 6 Q. When you found out that the schedules had
 7 been changed, was it your understanding
 8 that it had been changed for everybody?
 9 A. Correct. As far as the floor personnel.
 10 Q. It wasn't just your schedule that had been
 11 changed?
 12 A. Correct.
 13 Q. All right. Paragraph 26 of the complaint.
 14 A. Okay.
 15 Q. Who offered you the nurse manager's
 16 position?
 17 A. That was Lee Ashbury. He came down to the
 18 clinic.
 19 Q. What did he tell you when he offered you
 20 the nurse manager's position?
 21 A. That they wanted to offer it to me first.
 22 It was me and Karen. Karen had applied for
 23 it. I had not applied for it. They came

Page 62

1 to me. They wanted to offer it to me first
 2 because of my experience, my longevity with
 3 the clinic and all like that that they
 4 wanted me to -- you know, offer it to me
 5 first. And like it said here, I declined
 6 because I was dealing with those health
 7 problems, my foot and my stomach. I knew
 8 that I just wasn't really able to do it at
 9 that point. And I thanked him and told him
 10 if it came available again to please give
 11 me a chance again. But I turned it down at
 12 that point.
 13 Q. You had several very good evaluations while
 14 you were employed at DCI; correct?
 15 A. Yes, sir. As far as -- To my knowledge,
 16 yes, sir.
 17 Q. And you received several raises throughout
 18 your employment; correct?
 19 A. Yes, sir.
 20 Q. Did anybody ever indicate to you there was
 21 any problems with your employment or your
 22 performance?
 23 A. No, sir.

Page 63

1 Q. All right. Paragraph 25 of the complaint
 2 you reference a letter that you received
 3 from Mr. Ashbury.
 4 A. Correct.
 5 Q. And we've talked about the fact that you
 6 had conversations with Karen Hamilton about
 7 coming back to work. While you were on
 8 your leave of absence, did you have any
 9 conversations with Mr. Ashbury about coming
 10 back to work?
 11 A. No, sir. I went to the chain of command,
 12 which was Karen.
 13 Q. All right. After your heart attack, did
 14 you have any conversations with Mr. Ashbury
 15 before you were terminated?
 16 A. No, sir.
 17 Q. After you were terminated, did you have any
 18 conversations with Mr. Ashbury?
 19 A. Only letter, you know, by memo or letter.
 20 No verbal conversation.
 21 Q. So after May of 2005 you had no
 22 conversations with Mr. Ashbury?
 23 A. Not that I can recall.

Page 64

1 Q. Other than Ms. Hamilton -- Did you have any
 2 conversations with any other manager or
 3 supervisor at DCI other than Ms. Hamilton?
 4 A. No, sir.
 5 Q. All right. When you told Ms. Hamilton that
 6 you didn't think you'd be able to work the
 7 12- or 13-hour shifts, what did she say?
 8 A. That's when she said that if I had to do
 9 that, you know, just wait and come back to
 10 work in two weeks.
 11 Q. What was going to happen in two weeks?
 12 A. I guess she thought -- I don't know what
 13 she thought. That's when I told her, you
 14 know, I needed to do that for two weeks.
 15 She said, well, since I had to do that for
 16 two weeks, just wait and start back to work
 17 in two weeks. That's when I told her it
 18 didn't matter if I started in two weeks or
 19 two months, I still needed time to get on
 20 my feet.
 21 Q. Did your doctor ever tell you how long he
 22 wanted you to work eight-hour shifts?
 23 A. Dr. Domingo -- Yeah. Two weeks.

Page 65

1 Q. Why did you feel like you would need more
 2 than two weeks to --
 3 A. I didn't. I never said I did. I was just
 4 trying to do what he said he wanted me to
 5 do was work eight-hour shifts for two
 6 weeks, like three days a week eight-hour
 7 shifts for two weeks. I never said it was
 8 more.
 9 Q. So even if you came back in July of '05,
 10 you thought, all right, I'll need to work
 11 two weeks. If you came back in August of
 12 '05, you felt like you'd need to work eight
 13 hours for two weeks?
 14 A. Correct.
 15 Q. Just to kind of get your feet under you and
 16 get used to working again. Is that --
 17 A. Yes, sir. When I had that heart attack, it
 18 pretty well -- it scared me. I was
 19 scared. I'll be honest with you. I was
 20 scared. And then when I thought I was
 21 having another heart attack I was double
 22 scared. So I just -- Yeah.
 23 Q. So when you told Ms. Hamilton that it

Page 66

1 doesn't matter when you come back, you're
 2 still going to need to work eight-hour
 3 shifts for two weeks, what did she say?
 4 A. I've already told you. That's when she --
 5 She just said there was nothing that we can
 6 do to help you. You know, I just
 7 thought --
 8 Q. Was that how the conversation ended?
 9 A. Pretty much.
 10 Q. After that conversation with Ms. Hamilton,
 11 did you have any other conversations with
 12 her or anybody else with DCI?
 13 A. No, sir. I just, you know, told her it
 14 wasn't fair, that I had been there five
 15 years. I was only asking for two weeks.
 16 Q. Did you try to get in touch with
 17 Mr. Ashbury?
 18 A. I went through the chain of command. From
 19 my understanding -- I'm a firm believer in
 20 chain of command.
 21 Q. I understand. I understand why you spoke
 22 to Ms. Hamilton.
 23 A. Because I asked her, I said, does Lee or

Page 67

1 corporate know what's going on. Her
 2 statement to me was, there is nothing we
 3 can do to help you. So that included
 4 everybody.
 5 Q. I understand. After that conversation with
 6 Ms. Hamilton, did you try to get in touch
 7 with Mr. Ashbury?
 8 A. No, sir.
 9 Q. Did you try to get in touch with any other
 10 manager or supervisor at DCI --
 11 A. No.
 12 Q. -- after your conversation with
 13 Ms. Hamilton?
 14 A. No, sir.
 15 Q. Did you try to contact human resources?
 16 A. No, sir. At that point I felt like she
 17 just didn't want me there.
 18 (Defendant's Exhibit 10 was marked
 19 for identification.)
 20 Q. Let me hand you a copy of a work schedule
 21 for April of 2005 and ask if you recognize
 22 that.
 23 A. Well, it's just a work schedule. Yeah.

Page 68

1 Q. Is this a work schedule that would be --
 2 that was posted?
 3 A. Correct. And we'd all get copies.
 4 Q. So you -- this was posted and every RN was
 5 given a copy of the work schedule?
 6 A. Sure. As far as I know. I mean, I always
 7 got -- made a copy of it.
 8 Q. All right. It's got the name Margaret
 9 RN --
 10 A. Correct.
 11 Q. -- down there. It's your understanding
 12 that's you?
 13 A. Yes, sir.
 14 Q. What do the W's stand for?
 15 A. That's work.
 16 Q. And the zeroes?
 17 A. Is off.
 18 Q. And how about the W slash one, what does
 19 that stand for?
 20 A. Leave at one maybe. To be honest, I don't
 21 recall what that would be.
 22 Q. Do you have any reason to believe this is
 23 not the work schedule for April of 2005?

Page 69

1 A. No, sir.
 2 (Defendant's Exhibit 11 was marked
 3 for identification.)
 4 Q. Here's a copy of what I think is the work
 5 schedule for May of 2005. Would you take a
 6 look at that and tell me if you agree that
 7 that is the May 2005 work schedule?
 8 A. Well, I wasn't there after this point, so I
 9 mean --
 10 Q. Well, you were there for part of May;
 11 right?
 12 A. 2005? I had my heart attack May the 9th,
 13 so, no, I wasn't there.
 14 Q. So you weren't there for any part of this
 15 schedule?
 16 A. No, sir.
 17 Q. Do you happen to know -- Next to your name
 18 there it has S listed. Do you happen to
 19 know what S stands for on these work
 20 schedules?
 21 A. I believe it's sick, sick days, sick.
 22 Q. And now it looks like instead of O's
 23 there's X's on the work schedule. Do you

Page 70

1 know what the X's stand for?
 2 A. The X's are like falling on Sundays and we
 3 were closed on Sundays. The clinic was
 4 closed.
 5 Q. But there's also some X's during the week.
 6 Like Bertha has an X next to Tuesday the
 7 10th.
 8 A. Well, it looks like that might be an off
 9 day, then. I don't know.
 10 Q. Do you recall what the X's were used for on
 11 the schedules?
 12 A. No, sir. This was after I had already had
 13 my heart attack. I don't remember that.
 14 MR. SAXON: Can we take a short
 15 break?
 16 MR. FRENCH: Yeah.
 17 (Brief recess was taken.)
 18 (Defendant's Exhibit 12 was marked
 19 for identification.)
 20 Q. Ms. Carter, I've just handed you a copy of
 21 your discovery responses that have been
 22 marked as Exhibit Number 12, and I just
 23 wanted to ask you a few questions about

Page 71

1 your responses. If you could turn to page
 2 number 4.
 3 A. Okay.
 4 Q. We have discussed this information
 5 briefly. Your response to question number
 6 five you list all the places that you have
 7 worked including DCI. And I just wanted
 8 you to take a minute and look at that
 9 information and just verify that it is
 10 accurate.
 11 A. It appears to be, yes.
 12 Q. The job you had after DCI was BMA
 13 Tuskegee. That's Biomedical Associates;
 14 correct?
 15 A. Correct.
 16 Q. And you were a dialysis nurse with them?
 17 A. Yes, sir.
 18 Q. You were a team leader. What's a team
 19 leader?
 20 A. Well, it's less than a charge nurse. They
 21 did away with charge nurse. Basically it's
 22 just there was two RNs there and the room
 23 was split in two. And that was your

Page 72

1 responsibility over here and then the other
 2 one had their responsibilities over there.
 3 Q. But you made more per hour than you did at
 4 DCI; correct?
 5 A. Yes, sir. Yes, sir.
 6 Q. What was your schedule at BMA Tuskegee?
 7 A. When I went there after my heart attack, I
 8 worked eight-hour shifts. I was in
 9 classroom for two weeks for eight hours and
 10 then I was put on the floor after that.
 11 Q. And what was your shifts after the
 12 eight-hour shifts?
 13 A. It was basically still four days a week, 10
 14 hours.
 15 Q. So was that your shift with BMA for most of
 16 your employment with them?
 17 A. Yes, sir.
 18 Q. Four days a week, 10 hours a day?
 19 A. Yes, sir. I might have worked three days a
 20 week some. I can't remember.
 21 Q. Were there any significant differences
 22 between the benefit package with BMA versus
 23 the benefit package at DCI?

Page 73

1 A. The best I can remember it was probably
2 about the same.
3 Q. Now, why did you leave BMA?
4 A. Because they had capped my salary.
5 Q. What does that mean?
6 A. They wasn't going to pay me anymore.
7 Q. What was your salary capped at?
8 A. Right at \$25. And they said I wouldn't
9 be -- I wouldn't be getting any more
10 raises. I've just never been capped before.
11 Q. The last sentence in the paragraph
12 discussing BMA says, I was also too
13 stressed given the location and having to
14 travel the distance alone. What do you
15 mean there?
16 A. Where I live it was all back roads, little
17 two by four back country roads.
18 Q. To get to Tuskegee?
19 A. To get to Tuskegee from where I lived.
20 Q. And you were just nervous about the travel?
21 A. Correct. And at night coming home by
22 myself and the cell phone reception was
23 horrible through there.

Page 74

1 Q. If they had continued to give you raises,
2 would you have continued to work at BMA?
3 A. I really don't know about that. Probably.
4 I don't know. Because like I said, it was
5 just -- it was a very stressful trip and
6 all.
7 Q. Did you ever consider reapplying at DCI?
8 A. I was scared to.
9 Q. Why?
10 A. Because I was scared they'd do the same
11 thing to me again if I got sick.
12 Q. What did they -- What do you mean?
13 A. Well, wouldn't take me back after I had my
14 heart attack.
15 Q. And you worked at DaVita Dialysis from
16 April of '07 to May of '07. Your position
17 there was team leader again.
18 A. Uh-huh (positive response).
19 Q. What was that job?
20 A. Basically the same thing as the other one
21 was. You had a section that you were
22 responsible for. You didn't cover the
23 whole floor. You just had a section.

Page 75

1 Q. And you made \$25 an hour there?
2 A. Correct.
3 Q. Why did you leave DaVita?
4 A. Because the scheduling was awful. I was on
5 my feet from 5:30 in the morning and I
6 didn't get a break until like 2:30 in the
7 afternoon. And I was just -- I couldn't do
8 that. They kept telling me it was going to
9 get better, it was going to get better, but
10 I just -- I couldn't take that. That's too
11 much on my -- I was literally on my feet.
12 Because the way they staggered the patients
13 going on the machine, there was always
14 somebody going on or somebody coming off
15 and you had to be there.
16 Q. Too much on your feet time?
17 A. Correct.
18 Q. What was the work schedule there? Days per
19 week?
20 A. They worked -- Now, the best I -- All
21 right. You'd work like Tuesday, Wednesday,
22 Thursday -- or like Wednesday, Thursday,
23 Friday, Saturday, off Sunday, and then work

Page 76

1 three or four days again and then you had a
2 week off. So it was a lot of bunched up
3 time with a span off. That was too
4 stressful for me. That was just pushing it
5 a little bit too much.
6 Q. All right. I apologize if this is
7 redundant. But to the best of your
8 knowledge, when the schedule was changed at
9 DCI, all of the floor personnel had to work
10 three days a week 12 to 13 hours per day?
11 A. From my understanding, yes.
12 Q. Do you have any reason to think that that's
13 not accurate?
14 A. Well, considering I was never officially,
15 you know, sent any documentation about
16 that, this is just what I was being told,
17 I'm just, you know --
18 Q. What I'm getting at -- and I'm not asking a
19 very good question. Did anybody ever tell
20 you that that was not true, that there were
21 only some people who were working that?
22 A. I don't -- No. I don't think so.
23 Q. Did Ms. Tyndal's schedule change?

Page 77

1 A. Yes, sir.
 2 Q. Did she have to work three days a week 12
 3 to 13 hours a day?
 4 A. Yes, sir.
 5 Q. All right. Paragraph 17 on page 9.
 6 A. 17. Okay.
 7 Q. The response to number 17. It says, I had
 8 to seek employment at a lesser position and
 9 eventually in a different nursing field.
 10 What did you mean by a lesser position?
 11 A. I lost -- I was no longer charge. I was
 12 dropped down to team leader. I just -- I
 13 lost my seniority. You know, I had no
 14 seniority. I had to start all over.
 15 Q. But you feel like the position as team
 16 leader is --
 17 A. It's lesser than charge, yes, sir.
 18 Q. A less position in some way?
 19 A. Yes, sir.
 20 Q. But the pay was greater; right?
 21 A. Well, depending on what company you worked
 22 with, their pay scale.
 23 Q. The company you worked with was BMA. When

Page 78

1 you went to work at BMA, you made more than
 2 you made per hour at DCI; right?
 3 A. Yes, sir.
 4 Q. And you still got 40 hours a week; right?
 5 A. Correct.
 6 Q. All right. And it says you -- I think what
 7 the implication is that you had to seek
 8 employment in a different nursing field.
 9 Did you not want to work in hospice
 10 nursing?
 11 A. Well, after I had taken care of John, I
 12 guess I was doing hospice nursing, my
 13 fiance that had cancer. I didn't have
 14 hospice come in. I took care of him. I
 15 wanted to stay in dialysis. That's what I
 16 specialized in. That's what I love to do.
 17 But after, of course, DCI and then trying
 18 to get comfortable in other dialysis
 19 clinics and that not working out, I decided
 20 to try hospice since I was familiar with it
 21 in a personal sense.
 22 Q. But when you started doing hospice work,
 23 you also made \$27 an hour, right, which was

Page 79

1 more than you'd ever made --
 2 A. Correct.
 3 Q. -- in dialysis?
 4 A. Correct. At that point, yes.
 5 Q. You also say, I have less time to care for
 6 my 95-year-old mother. What are you
 7 referring to there?
 8 A. My mother is basically homebound. She has
 9 to have 24-hour care, sitters, things like
 10 that. When I worked in Union Springs, I
 11 was able to go over there after work and
 12 relieve -- our main problem with sitters is
 13 in the evening. So my sister has to go
 14 over there every day after work now who has
 15 lupus, who has had quadruple bypass
 16 surgery. I can no longer do that, so she's
 17 having to do it. And when she can't do it,
 18 we're having to have more sitters come in
 19 now and try to fill gaps and things like
 20 that. It's a financial strain. I helped
 21 out a lot since she just lived four blocks
 22 from DCI. She was right there.
 23 Q. Were you able to help out a good bit when

Page 80

1 you worked at BMA?
 2 A. In Tuskegee? No, sir.
 3 Q. What about the three days a week that you
 4 weren't there?
 5 A. When I'm off I help. When I'm off. When
 6 I'm not working, I'm taking care of my
 7 mother or helping her, seeing about my
 8 sister or doing whatever I need to do.
 9 Q. If you had continued at DCI, you would have
 10 had to work three days a week 12 or 13
 11 hours a day; correct?
 12 A. From my understanding, yes, sir.
 13 Q. And there wouldn't have been any
 14 restrictions on your helping out the four
 15 other days of the week; right?
 16 A. As far as?
 17 Q. Your job requirements with DCI.
 18 A. I would work any time they needed me to
 19 work.
 20 Q. If you had four days a week off at DCI, you
 21 would have been able to help with your
 22 mother then; right?
 23 A. Well, other than recuperating from the long

Page 81

1 hours that I would have had to have done,
 2 you know, after that stretch of long
 3 hours. But I could have probably helped
 4 more, yes.
 5 Q. The last thing you say here is I have lost
 6 my retirement benefits. What retirement
 7 benefits did you lose?
 8 A. Well, my chance to continue to be vested in
 9 the company and add to that.
 10 Q. When you went to work at BMA, were you
 11 eligible for a retirement plan?
 12 A. Yes, sir. And I believe I might have been
 13 started in one, but it had just started
 14 when I left.
 15 Q. And to the best of your -- To the best of
 16 your knowledge, you're not eligible for the
 17 Alacare Hospice retirement plan yet?
 18 A. To the best of my knowledge, no, sir, not
 19 yet.
 20 Q. Do you intend to enroll in that if you can?
 21 A. Yes, sir.
 22 Q. Are you currently under the care of any
 23 physician or counselor for stress, anxiety

Page 82

1 or depression?
 2 A. No, sir.
 3 Q. Were you ever -- Did anyone other than your
 4 primary care physician or your cardiologist
 5 ever treat you for stress, anxiety or
 6 depression?
 7 A. Just them.
 8 Q. Dr. Domingo?
 9 A. Yes, sir.
 10 Q. He's the one who treated you for -- or is
 11 it a she?
 12 A. He.
 13 Q. He treated you for stress, anxiety and
 14 depression?
 15 A. Yes, sir.
 16 Q. But you're not currently taking any
 17 medications for any of those conditions?
 18 A. No, sir.
 19 (Defendant's Exhibit 13 was marked
 20 for identification.)
 21 Q. Let me hand you a letter from Mr. Ashbury
 22 dated May 30, 2005 -- it's been marked
 23 Exhibit 13 -- and ask if you recognize that

Page 83

1 letter.
 2 A. Yes, sir.
 3 Q. Do you recall receiving a copy of this
 4 letter from Mr. Ashbury?
 5 A. Yes, sir.
 6 Q. Did you ever have any questions about your
 7 FMLA leave?
 8 A. No, sir.
 9 Q. Did the company help you in every way that
 10 you thought was appropriate with respect to
 11 your FMLA leave?
 12 A. You mean during my leave?
 13 Q. Getting the leave established and during
 14 the leave.
 15 A. Yes, sir.
 16 (Defendant's Exhibit 14 was marked
 17 for identification.)
 18 Q. Let me hand you a document that's been
 19 marked Exhibit 14 and ask if you recognize
 20 that. Well, let me ask you another
 21 question. Is this the short-term
 22 disability application form that you
 23 submitted to DCI?

Page 84

1 A. Looks to be, yes, sir.
 2 Q. Is that your signature on the second page
 3 next to the date 6/13/05?
 4 A. Yes, sir.
 5 Q. When you filled out this application form,
 6 did you have any idea when you might be
 7 able to return to work?
 8 A. Probably not if it was filled out right
 9 after the heart attack. I wouldn't have
 10 been able to have known right then.
 11 Q. Do you recall when your doctor -- Never
 12 mind. Horrible thought. It would have
 13 been a worse question.
 14 Do you feel like -- To the best of your
 15 knowledge, did you receive all of the FMLA
 16 leave that you were entitled to?
 17 A. To the best of my knowledge, yes.
 18 Q. To the best of your knowledge, did you
 19 receive all of the personal leave that you
 20 were entitled to under the DCI personal
 21 leave policy?
 22 A. To the best of my knowledge, yes.
 23 Q. You just feel like they should have brought

Page 85

1 you back to work when the doctor released
 2 you to return to work on light duty?
 3 A. Yes, sir.
 4 (Defendant's Exhibit 15 was marked
 5 for identification.)
 6 Q. Let me hand you a letter from Dr. Domingo
 7 dated June 20th of 2005. Have you ever
 8 seen this letter before?
 9 A. Yes, sir.
 10 Q. Do you know if you or Dr. Domingo submitted
 11 this letter to DCI?
 12 A. I didn't.
 13 Q. Do you know if Dr. Domingo did?
 14 A. I guess his office did. I don't --
 15 Q. But do you know? Do you know if he did?
 16 A. Well, I have no reason not to believe they
 17 didn't. If they would have told me that
 18 they wasn't getting information, that they
 19 needed something and -- no one ever told me
 20 they needed anything from him other than
 21 what he -- they already had.
 22 Q. But you don't know if anybody ever sent
 23 this letter to DCI? I'm not saying they

Page 86

1 didn't. I'm just trying to find out what
 2 you know. Did you take this letter to DCI?
 3 A. No.
 4 Q. Did you ever have a conversation with
 5 anyone at DCI about this letter?
 6 A. Well, when I would talk and call in to
 7 Karen, you know, and give my report I
 8 would, you know, basically tell them what
 9 was going on, you know.
 10 Q. But do you recall having any conversation
 11 with them about this letter?
 12 A. I would have to guess on that. I -- Really
 13 I don't recall if it would be specifically
 14 this letter.
 15 (Defendant's Exhibit 16 was marked
 16 for identification.)
 17 Q. All right. Let me hand you a letter from
 18 Mr. Ashbury dated June 27, 2005 that's been
 19 marked Exhibit 16. Do you recall receiving
 20 a copy of that letter?
 21 A. Yes, sir.
 22 (Defendant's Exhibit 17 was marked
 23 for identification.)

Page 87

1 Q. Let me hand you a copy of a letter dated
 2 July 20, 2005 from Dr. Domingo's office.
 3 It's been marked Exhibit 17.
 4 A. Yes, sir.
 5 Q. Have you ever seen this letter before?
 6 A. Yes, sir.
 7 Q. When have you seen this letter?
 8 A. When I went and got copies of my medical
 9 records.
 10 Q. We talked earlier today about an incorrect
 11 letter that was sent to DCI and then a
 12 second letter being faxed to DCI. Do you
 13 remember that conversation?
 14 A. Yes, sir.
 15 Q. Do you know if -- Do you know if this is
 16 one of those two letters that you were
 17 talking about?
 18 A. This would be -- Yes, sir. This would be
 19 one of them.
 20 Q. Is this one the correct one, or is this one
 21 the incorrect one?
 22 A. It appears to be the correct one because it
 23 says to work eight-hour shifts for two

Page 88

1 weeks, should you have any questions ...
 2 Q. So based on your recollection that
 3 information is the same information that
 4 the doctor told you?
 5 A. Yes, sir.
 6 (Defendant's Exhibit 18 was marked
 7 for identification.)
 8 Q. Let me hand you a letter dated July 21,
 9 2005 from Dr. Domingo's office that's been
 10 marked Exhibit 18. Have you ever seen that
 11 letter before?
 12 A. Yes, sir.
 13 Q. All right. This letter has the same
 14 eight-hour shift for two weeks information,
 15 but it adds the return to work date of July
 16 25, 2005. Do you see that?
 17 A. Yes, sir.
 18 Q. Do you have any idea why Dr. Domingo's
 19 office created this letter?
 20 A. No, sir, I don't.
 21 Q. Do you know if anybody sent this letter to
 22 DCI?
 23 A. Actually see it done, no, sir, I did not.

1 Q. Did you ever discuss this letter with
2 anybody at DCI?

3 A. Just the same context about working
4 eight-hour shifts for two weeks, you know.

5 Q. Did you ever have a discussion with Karen
6 Hamilton about the date on which you could
7 return to work?

8 A. Well, it was always we were trying to get
9 there July the 23rd. That was the big, you
10 know, cutoff day. So it was all trying to
11 take place by July the 23rd. I don't
12 remember what July the 23rd fell on,
13 but ...

14 Q. Do you ever recall discussing -- I know you
15 were trying to get there by July 23rd, but
16 do you recall any discussions with Karen
17 Hamilton about being released to return to
18 work on July 25th?

19 A. No, sir.
20 (Defendant's Exhibit 19 was marked
21 for identification.)

22 Q. All right. Here's another letter from
23 Dr. Domingo's office dated July 26th,

1 2005. It's been marked Exhibit 19. Have
2 you ever seen that letter before?

3 A. I've seen it when I picked up my medical
4 records, but I know the context.

5 Q. What's the context for this letter?
6 A. When I had the conversation with Karen
7 Hamilton about me coming back to work on
8 eight-hour shifts and two weeks and all
9 like that, the remark was made to me that I
10 could work two 12-hour shifts. And when I
11 thought that that was going to be my only
12 choice to save my job, then I went to
13 Dr. Domingo and told him that they were not
14 going to work me eight-hour shifts, that I
15 had to go back to 12-hour shifts two days a
16 week that I felt like in order to save my
17 job.

18 Q. Did you take this letter to DCI?
19 A. I don't think so.

20 Q. Do you know if Dr. Domingo's office sent it
21 to DCI?
22 A. They were supposed to.

23 Q. Did you ever have a conversation with

anybody at DCI about this letter?

1 A. I don't know if it pertained to this
2 letter. But when I got to thinking about
3 it, I didn't contact them anymore. I just
4 didn't want to go against what my doctor
5 wanted me to do. I didn't want to work
6 12-hour shifts. He wanted me to work
7 eight. He just changed it to 12 because my
8 job depended on it.

9 Q. So he changed it because you asked him to
10 change it?

11 A. Because I asked him to. I begged him to.

12 Q. But you never called Karen Hamilton or
13 Mr. Ashbury back and told them that your
14 doctor said that you could do that, work
15 two days a week 12 hours a day?

16 A. I had come to the conclusion that I wasn't
17 going to jeopardize my health. The doctor
18 knew better. He knew what my work was
19 over there and what I had to do and I just
20 had to make a decision. And I was going
21 put my health -- what he wanted me to do
22 first.
23

1 Q. Okay. I just want to make sure I
2 understand. So either the comment was
3 or it appeared in a letter where they told
4 you that they would consider allowing
5 to work two days a week a full shift of
6 or 13 hours?

7 A. Correct.

8 Q. You went to the doctor, told him that
9 he said, okay, I'll write you this letter.
10 But you never followed up with DCI
11 wanting to do two days a week 12 hours
12 a day?

13 A. No, sir, I did not.
14 (Defendant's Exhibit 20 was marked
15 for identification.)

16 Q. Here's a letter from Mr. Ashbury dated
17 26, 2005. It's been marked Exhibit 1
18 20. Did you receive a copy of that letter?

19 A. Yes, sir.

20 Q. After you received this letter from
21 Mr. Ashbury, did you have any conversation
22 with Karen Hamilton or Mr. Ashbury
23 returning to work?

Page 93

1 A. To my knowledge, no, sir.
 2 Q. Did you ever receive a -- any other notice
 3 or communication from DCI about your
 4 termination?
 5 A. It seems like there -- Are these all the
 6 letters you have? There might have been --
 7 I'm trying to think if there was another
 8 letter. Let's see. There was -- You have
 9 what I have. So if that's all you have,
 10 then that's all that I have.
 11 Q. Well, today you don't recall receiving
 12 another letter from them about your
 13 termination?
 14 A. After this July the 26th?
 15 Q. Correct.
 16 A. Oh, no, sir.
 17 (Defendant's Exhibit 21 was marked
 18 for identification.)
 19 Q. Let me hand you a notice of employee
 20 termination dated August 9 of '05. Have
 21 you ever seen that document before?
 22 A. (Witness shakes head).
 23 Q. Did DCI send you a copy of that document?

Page 94

1 A. No, sir.
 2 Q. And you haven't seen it before today?
 3 A. No, sir.
 4 Q. Did you ever work for a company called
 5 Physician's Choice Dialysis?
 6 A. Was that in Florida?
 7 Q. Well, what I'm looking at is information
 8 that y'all produced in discovery.
 9 A. I'm trying to remember who that might have
 10 been. That might have been -- Let me look
 11 at it. I'm trying to remember what the
 12 date of that would have been. That might
 13 have been DaVita. I believe that was --
 14 Well, Physician's Choice. I'm trying to
 15 look at dates on it. That might have been
 16 DaVita. I'm not sure about that with the
 17 way they sent their checks. I believe that
 18 might have been DaVita. If I had a date on
 19 it, I could tell you. I believe that was
 20 DaVita, though.
 21 Q. This says it's a wage -- a W-2 wage and tax
 22 statement from 2007.
 23 A. So that would have had to -- and it was

Page 95

1 just for the 3,000 something?
 2 Q. Yes, ma'am.
 3 A. That would have been DaVita, then, because
 4 I was only there for a few weeks.
 5 Q. Biomedical Applications, is that BMA?
 6 A. Yes, sir.
 7 Q. So it's not Biomedical Associates?
 8 A. Applications. I'm sorry. They became
 9 Fresenius.
 10 Q. I'm sorry, because I'm the one who
 11 suggested that it might be Associates. But
 12 BMA is Biomedical Applications?
 13 A. If that's what -- Yes, sir.
 14 Q. Have you ever been self-employed in any
 15 way?
 16 A. I had a store at one point in Midway,
 17 Alabama, which is Bullock County.
 18 Q. Was this before 2000?
 19 A. Yes.
 20 Q. Ms. Carter, are you aware or do you recall
 21 any employees who have worked for DCI who
 22 went out on a personal leave and at the end
 23 of that leave were not allowed to come back

Page 96

1 to work other than you?
 2 A. Not that I'm aware of.
 3 Q. Are you aware of any employees who went out
 4 on a personal leave of absence and were
 5 allowed to come back to work in a light
 6 duty capacity?
 7 A. Like I said previously, I believe Hazel
 8 Goshay, Bobby Streeter from that clinic
 9 right there.
 10 Q. But neither one of them were RNs, were
 11 they?
 12 A. No, sir.
 13 Q. What were their positions?
 14 A. Technical machine, technical -- they were
 15 all technical, you know, supplying, stuff
 16 like that, keeping up with supplies,
 17 machines.
 18 Q. Are you aware of any nurse at DCI who was
 19 allowed to come back to work in a light
 20 duty capacity following the expiration of a
 21 leave of absence?
 22 A. Give me a minute. At this point, no, I
 23 can't recall anybody.

Page 97

1 Q. Do you recall any supervisor or manager at
 2 DCI making any negative remarks to you or
 3 about you taking a leave of absence?
 4 A. No, sir.
 5 Q. At any time during your employment did you
 6 ever hear them -- any supervisor or manager
 7 make a negative remark about an employee
 8 taking an FMLA leave or a personal leave of
 9 absence?
 10 A. To my knowledge, no.
 11 Q. All right. The claim asserted in this
 12 lawsuit is a FMLA retaliation claim. And
 13 this is my -- I'm going to tell you what I
 14 think it is; all right? I think it is you
 15 have asserted that you believe that the
 16 company terminated you because you took a
 17 leave of absence that you were entitled to
 18 under the Family and Medical Leave Act. Is
 19 that what you believe?
 20 A. The only thing -- Do you want me to put it
 21 in my words or --
 22 Q. Your words would be great.
 23 A. The way I see it, I got -- I had a heart

Page 98

1 attack. I tried to come back with some
 2 accommodations for a couple of weeks and
 3 they wouldn't let me.
 4 Q. Do you think you were terminated because
 5 you took a leave of absence under the
 6 Family and Medical Leave Act?
 7 MR. SAXON: Object to the form to
 8 the extent it calls for a
 9 legal conclusion. You can
 10 answer.
 11 A. I really don't know exactly how to answer
 12 that. I'm not a lawyer. I was given
 13 medical leave, but I wasn't allowed to come
 14 back. Now, I don't know how those two --
 15 Q. Right. Well, I'm not asking you to be a
 16 lawyer. I wouldn't wish that on anyone.
 17 What I'm trying to understand is what your
 18 belief is.
 19 A. All right.
 20 Q. You took this leave of absence under the
 21 Family and Medical Leave Act. Do you think
 22 you were terminated because you took that
 23 leave?

Page 99

1 MR. SAXON: Same objection. You
 2 can answer.
 3 A. I was given the leave. I wasn't denied the
 4 leave.
 5 Q. I understand. But do you think you were
 6 terminated because you took that leave?
 7 A. I think it's all wrapped in together
 8 because I -- I couldn't come back and work
 9 like they wanted me to work. I don't know
 10 how to separate the two is my point. I
 11 really don't.
 12 Q. All right. So you do believe that they
 13 should have just let you come back and
 14 worked light duty --
 15 A. Correct.
 16 Q. -- at the end of your leave?
 17 MR. FRENCH: Let me take a couple
 18 of minutes; okay?
 19 MR. SAXON: Okay.
 20 (Brief recess was taken.)
 21 MR. FRENCH: I don't have any more
 22 questions. Thank you very
 23 much.

Page 100

1 THE WITNESS: Okay.
 2 EXAMINATION
 3 BY MR. SAXON:
 4 Q. I've got a couple real quick. Margaret,
 5 let me ask you this: At DCI prior to your
 6 heart attack, had you always worked the
 7 schedule that they gave you?
 8 A. Yes, sir.
 9 Q. Did you ever complain about the schedule,
 10 or did you just work it --
 11 A. I just worked it. If something needed
 12 changing, there was no problem there.
 13 Q. You worked the number of hours on the
 14 number of days they gave you?
 15 A. Yes, sir. Unless something happened that I
 16 couldn't, you know --
 17 Q. Okay.
 18 A. -- I was there.
 19 Q. And is the only reason you weren't going to
 20 be able to work three days a week for 12 or
 21 13 hours when you returned from your heart
 22 attack was because you were still
 23 recuperating?

Page 101

1 A. Yes, sir.
2 Q. And did you ask them for accommodation to
3 let you work eight-hour days?
4 A. Yes, sir.
5 Q. And you told Mr. French that you were aware
6 of some people who had been given light
7 duty or -- and that was Mr. Streeter and
8 Ms. Goshay?
9 A. Yes, sir.
10 Q. And why do you think you were terminated by
11 DCI?
12 A. Well, I was a good employee, good nurse. I
13 was offered a clinical manager job. They
14 thought apparently enough of me to want me
15 to do that. I got sick, I had to take
16 leave, and then I was terminated. So why
17 was I terminated? Because I took leave and
18 had a heart attack, I guess. I don't know
19 how else to phrase it. I don't. It's all
20 combined.
21 MR. SAXON: That's all I've got.
22 EXAMINATION
23 BY MR. FRENCH:

Page 102

1 Q. I've got a follow-up question. Do you
2 believe you were terminated because you
3 took FMLA leave?
4 A. In a sense, yes. Because if I hadn't taken
5 the leave, I wouldn't have got -- I
6 wouldn't have had the problem. If I hadn't
7 had the heart attack, I wouldn't have had
8 the problem.
9 Q. Tell me every reason you believe that you
10 got terminated because you took FMLA
11 leave.
12 A. Because I couldn't come back and work full
13 force wide open, I guess.
14 Q. Did anybody ever say anything negative to
15 you about having taken leave?
16 A. Not personally, I mean, no.
17 Q. Did anybody ever tell you that anybody had
18 said something negative about you taking
19 leave?
20 A. No, sir.
21 Q. When we just took a break, did you and your
22 lawyer discuss how you answered any
23 questions in this deposition?

Page 103

1 A. Just -- Not specifically, no.
2 Q. So did you and your lawyer discuss how you
3 answered the question about why you believe
4 you were terminated?
5 A. Is that client-attorney privilege?
6 Q. Not if you're discussing how to answer a
7 question in a deposition.
8 A. I was not told how to answer, okay? I
9 mean, I just told what I felt about
10 everything being combined. I couldn't --
11 You know, it all happened in steps.
12 Q. Did you and your lawyer discuss that during
13 this last break?
14 A. No, sir.
15 Q. You didn't discuss with your lawyer how you
16 had answered any questions?
17 A. What do you want me to say? You know, I --
18 No, sir.
19 Q. I just want you to tell the truth.
20 A. I'm telling the truth. No, sir. He was
21 just telling me I was doing good, you know,
22 slow down, you know. What else, I mean ...
23 What I've already said is what I've already

Page 104

1 said.
2 MR. FRENCH: Okay. I don't have
3 any more questions.
4 MR. SAXON: That's all I've got.
5 (Deposition was concluded at
6 approximately 3:15 p.m.)
7
8 *****
9 FURTHER DEPONENT SAITH NOT
10 *****
11
12 REPORTER'S CERTIFICATE
13 STATE OF ALABAMA
14 MONTGOMERY COUNTY:
15 I, Lyn Daugherty, Certified Shorthand
16 Reporter and Commissioner for the State of Alabama
17 at Large, do hereby certify that I reported the
18 deposition of:
19 MARGARET ANN CARTER
20 who was duly sworn by me to speak the truth, the
21 whole truth and nothing but the truth, in the
22 matter of:
23 MARGARET A. CARTER,

Page 105

1 Plaintiff,

2 vs.

3 DIALYSIS CLINIC, INC.,

4 Defendant.

5 IN THE UNITED STATES DISTRICT COURT

6 FOR THE MIDDLE DISTRICT OF ALABAMA

7 NORTHERN DIVISION

8 Civil Action No. 2:07CV682WKW

9 on Wednesday, May 14th, 2008.

10 The foregoing 104 computer-printed pages

11 contain a true and correct transcript of the

12 examination of said witness by counsel for the

13 parties set out herein. The reading and signing is

14 hereby waived.

15 I further certify that I am neither of kin

16 nor of counsel to the parties to said cause nor in

17 any manner interested in the results thereof.

18 This 29th day of May 2008.

19
20
21
22

Lyn Daugherty, ACCR #66

Expiration Date: 9-30-2008

23 Certified Court Reporter

And Commissioner for the

<p>A</p> <p>able 26:2 38:9 46:23 59:1,13 60:6,20 62:8 64:6 79:11,23 80:21 84:7,10 100:20</p> <p>about 6:16 8:15 12:7 13:20 16:4 18:23 20:14,17 21:4 23:5 24:17,22 25:20 26:4 26:5,6,7,9,13,14,17 27:14,17 28:4,5 31:15 32:9 33:10 34:2 36:16 37:20 38:23 39:21 41:15 43:8 44:16 46:10 48:15 52:17 53:7,8 57:8 58:13,16,18,22 59:3,11 60:22 63:5,6 63:9 68:18 70:23 73:2,20 74:3 76:15 80:3,7 83:6 86:5,11 87:10,17 89:3,6,17 90:7 91:1,3 92:10,22 93:3,12 94:16 97:3,7 100:9 102:15,18 103:3,9</p> <p>above 18:6 33:23</p> <p>absence 3:2,5 29:8,21 29:22 30:13 31:7,13 31:18 32:5 33:4,11 34:7,15 36:4 39:5 41:4 46:12 63:8 96:4 96:21 97:3,9,17 98:5 98:20</p> <p>accommodation 18:18 101:2</p> <p>accommodations 18:7 18:10,12 98:2</p> <p>ACCR 1:17 105:21</p> <p>accurate 7:2,3 41:1 47:22 71:10 76:13</p> <p>across 9:9 42:13</p> <p>Act 97:18 98:6,21</p> <p>Action 1:7 105:8</p> <p>actually 37:10 50:14 88:23</p> <p>acute 8:18,18 12:20,23</p> <p>ad 16:6</p> <p>add 81:9</p> <p>address 8:3</p> <p>adds 88:15</p> <p>administrator 21:13 47:12</p> <p>after 6:6 10:2 11:2 13:23 14:5 17:16 27:19 29:21 30:23 38:13 42:20 63:13,17 63:21 66:10 67:5,12</p>	<p>69:8 70:12 71:12 72:7,10,11 74:13 78:11,17 79:11,14 81:2 84:9 92:20 93:14</p> <p>afternoon 75:7</p> <p>again 13:14 55:11 57:9 62:10,11 65:16 74:11 74:17 76:1</p> <p>against 7:9 91:5</p> <p>ago 57:8,22</p> <p>agree 69:6</p> <p>agreed 5:2,16,23</p> <p>agreement 1:16</p> <p>Alabama 1:2,18,20 2:5 5:8 8:5 9:3,4 13:6,15 95:17 104:13,16 105:6</p> <p>Alacare 14:6,7,11,17 14:18,20 15:6 81:17</p> <p>allowed 95:23 96:5,19 98:13</p> <p>allowing 92:4</p> <p>alluded 46:14</p> <p>alone 73:14</p> <p>already 59:19 66:4 70:12 85:21 103:23 103:23</p> <p>altered 26:3</p> <p>always 43:16,18 44:23 68:6 75:13 89:8 100:6</p> <p>amount 34:20</p> <p>Ann 1:15 2:15 5:4 6:5 6:12 104:19</p> <p>another 22:7 31:4 55:6 56:20 65:21 83:20 89:22 93:7,12</p> <p>answer 28:22 29:4,16 31:22 98:10,11 99:2 103:6,8</p> <p>answered 102:22 103:3 103:16</p> <p>antidepressant 56:21</p> <p>anxiety 57:16 81:23 82:5,13</p> <p>anybody 34:22 41:14 62:20 66:12 76:19 85:22 88:21 89:2 91:1 96:23 102:14,17 102:17</p> <p>anymore 73:6 91:4</p> <p>anyone 82:3 86:5 98:16</p> <p>anything 15:9 26:5,9 27:6,9 29:13 31:11 31:16 32:3,7,17 34:22 43:18 48:3 57:3 59:22 60:4 85:20 102:14</p>	<p>Anyway 11:13 20:15</p> <p>apologize 34:11 76:6</p> <p>apparently 25:23 101:14</p> <p>APPEARANCES 2:1</p> <p>appeared 92:3</p> <p>appears 71:11 87:22</p> <p>application 3:17 83:22 84:5</p> <p>Applications 95:5,8,12</p> <p>applied 61:22,23</p> <p>appreciate 27:14</p> <p>appropriate 83:10</p> <p>approve 33:13</p> <p>approximately 1:21 7:21 8:9 104:6</p> <p>April 3:11 13:23 67:21 68:23 74:16</p> <p>around 60:7</p> <p>Ashbury 3:6,9,16,20 4:4 21:12,20,23 22:2 26:18 28:18 31:11 32:9 33:15 35:7 40:15 47:13 61:17 63:3,9,14,18,22 66:17 67:7 82:21 83:4 86:18 91:14 92:16,21,22</p> <p>asked 24:22 26:14 28:4 34:1 66:23 91:10,12</p> <p>asking 21:4 66:15 76:18 98:15</p> <p>ASN 10:4,12</p> <p>aspect 29:2</p> <p>asserted 97:11,15</p> <p>assets 15:20</p> <p>Associates 12:11 71:13 95:7,11</p> <p>associate's 10:9</p> <p>assume 37:13,14 40:13 40:16</p> <p>attach 43:10</p> <p>attack 18:15,16,19 26:7 27:19 31:21 32:1 41:23 42:21 43:9,12 45:17 46:1,5,15 55:6 57:14 58:4,6 63:13 65:17,21 69:12 70:13 72:7 74:14 84:9 98:1 100:6,22 101:18 102:7</p> <p>Attorneys 2:4,8</p> <p>August 13:12 65:11 93:20</p> <p>available 62:10</p> <p>Avenue 1:19 2:4</p> <p>average 43:19</p> <p>aware 18:5 50:20,20 53:16 95:20 96:2,3</p>	<p>96:18 101:5</p> <p>away 13:17 33:6 71:21</p> <p>awful 75:4</p> <p>B</p> <p>back 8:12,19 11:16 12:4 13:5,6,8,13,19 14:15,17,18 18:22 19:17 20:1,15,20,22 26:1 27:19 28:11 29:10,11 30:1,4,14 37:16 41:3,5,21 42:6 42:7,19 46:19,20,23 53:8,11,14,20 58:14 58:19 59:1,8,12,18 60:19 63:7,10 64:9 64:16 65:9,11 66:1 73:16,17 74:13 85:1 90:7,15 91:14 95:23 96:5,19 98:1,14 99:8 99:13 102:12</p> <p>bad 56:19</p> <p>Baker 44:9</p> <p>based 28:16 51:3 88:2</p> <p>basically 11:22 16:22 17:20 19:11 20:18 25:11 49:8 55:15 56:7,11 58:6 59:11 71:21 72:13 74:20 79:8 86:8</p> <p>basis 26:20</p> <p>BASS 2:8</p> <p>bat 60:19</p> <p>Beach 13:4</p> <p>became 11:15 30:18 42:3,9 95:8</p> <p>become 15:10 17:1 before 1:16 5:6 8:15,20 13:2 31:20,23 43:11 45:10 46:5 56:8 59:18 63:15 73:10 85:8 87:5 88:11 90:2 93:21 94:2 95:18</p> <p>begged 91:12</p> <p>beginning 13:23</p> <p>behalf 6:14</p> <p>being 50:12,22 76:16 87:12 89:17 103:10</p> <p>belief 98:18</p> <p>believe 7:8 10:20 12:12 12:14 16:19 20:6 21:14 24:16 30:3 44:10 51:2 68:22 69:21 81:12 85:16 94:13,17,19 96:7 97:15,19 99:12 102:2 102:9 103:3</p> <p>believer 66:19</p> <p>benefit 72:22,23</p>	<p>benefits 3:1 14:22,23 22:12 41:9 81:6,7</p> <p>BERRY 2:8</p> <p>Bertha 20:6 44:9 49:20 51:20 70:6</p> <p>best 18:20 19:2 23:16 23:19 29:4 32:6 40:23 41:2 44:15 46:4 48:8 57:11 58:10 61:4 73:1 75:20 76:7 81:15,15 81:18 84:14,17,18,22</p> <p>better 49:2,3 75:9,9 91:19</p> <p>between 5:3,17 6:1 41:18 51:20 72:22</p> <p>big 89:9</p> <p>Biomedical 12:9,11 71:13 95:5,7,12</p> <p>Birmingham 1:20 2:5 9:10 10:1,7</p> <p>bit 46:22 53:7 76:5 79:23</p> <p>blockage 42:3,16</p> <p>blocks 79:21</p> <p>blood 55:18,19,20 58:6 58:9</p> <p>blur 37:12</p> <p>BMA 11:23 12:6,8 13:12,13 71:12 72:6 72:15,22 73:3,12 74:2 77:23 78:1 80:1 81:10 95:5,12</p> <p>Bobby 30:5,18 31:1 96:8</p> <p>bone 39:9</p> <p>book 3:1 22:12</p> <p>boss 21:12</p> <p>both 19:14,15 30:15</p> <p>bottom 22:9 33:21 42:14</p> <p>bought 8:10 12:9</p> <p>break 7:11,12 70:15 75:6 102:21 103:13</p> <p>Brief 17:13 40:22 70:17 99:20</p> <p>briefly 14:12 49:1 71:5</p> <p>brother 9:2</p> <p>brought 22:18 84:23</p> <p>Bullock 8:5 9:18 11:3 14:14 95:17</p> <p>bunched 76:2</p> <p>business 29:18</p> <p>busy 48:18</p> <p>bypass 79:15</p> <p>C</p> <p>call 49:5,5 86:6</p> <p>called 16:7,10 91:13</p>
---	--	---	---	--

<p>94:4 calls 28:21 98:8 came 11:19 13:5,8 20:22 30:1,4 41:3,21 42:11 56:19 60:11 61:17,23 62:10 65:9 65:11 cancer 34:3 78:13 capacity 96:6,20 capped 73:4,7,10 cardiac 55:8 cardiologist 82:4 care 12:22 25:10 30:20 30:21 34:3 36:16 42:18 44:16 78:11,14 79:5,9 80:6 81:22 82:4 Carolyn 48:19 Carter 1:5,15 2:15 3:6 3:8,9,16,20 4:4 5:4 6:5,12,13 7:15 49:14 70:20 95:20 104:19 104:23 case 5:18,20 14:9 Cathedral 9:9 catholic 9:8 cause 105:16 caused 30:13 31:7 cell 73:22 CERTIFICATE 104:12 Certified 1:17 5:7 104:15 105:22 certify 104:17 105:15 chain 63:11 66:18,20 chance 7:6 62:11 81:8 change 38:16 41:9,11 46:10 56:9 76:23 91:11 changed 37:17 38:13 56:8 60:9,13,15 61:7 61:8,11 76:8 91:8,10 changes 45:16 changing 46:8 100:12 charge 2:22 11:6,7 16:21,23 17:1,10,18 38:11 45:10 47:7 71:20,21 77:11,17 checks 94:17 children 8:22 chitchatting 25:21 choice 90:12 94:5,14 cholesterol 55:19 chronic 12:21 church 9:11 churches 9:7 Civil 1:7 5:5 105:8 claim 97:11,12 classroom 72:9</p>	<p>clear 6:23,23 58:11 client-attorney 103:5 clinic 1:8 6:14 11:19 12:22 13:9 21:18,21 23:7 61:18 62:3 70:3 96:8 105:3 clinical 31:19 45:3 101:13 clinics 78:19 closed 70:3,4 closer 14:15 college 10:3,5,7,15 combined 101:20 103:10 come 16:15 19:17 20:20 26:1,19 29:10 41:4 42:6,7 53:20 59:1,8,12,18 64:9 66:1 78:14 79:18 91:17 95:23 96:5,19 98:1,13 99:8,13 102:12 comfortable 78:18 coming 52:20 53:8 58:13,19 60:19 63:7 63:9 73:21 75:14 90:7 command 63:11 66:18 66:20 commencing 1:21 comment 92:2 comments 41:14 commission 5:9 Commissioner 1:18 5:7 104:16 105:23 communication 46:7 93:3 company 77:21,23 81:9 83:9 94:4 97:16 complain 32:8,11,11 100:9 complaint 3:10 47:17 61:13 63:1 complaints 38:23 computer-printed 105:10 concern 3:19,22 4:1,3 36:13 concluded 104:5 conclusion 91:17 98:9 condition 48:14,15 58:22 conditions 82:17 conflicts 27:5,10,16 confused 36:1 39:18 confusing 38:7 consider 74:7 92:4 considering 46:8 76:14 contact 24:18 67:15</p>	<p>91:4 contacted 20:1 contain 105:11 context 89:3 90:4,5 continue 81:8 continued 2:23 3:23 21:3 38:18 74:1,2 80:9 conversation 19:12 51:3,8,22 53:1 58:12 58:13 59:3,11 60:11 63:20 66:8,10 67:5 67:12 86:4,10 87:13 90:6,23 92:21 conversations 25:1,4,7 53:7 58:17 63:6,9,14 63:18,22 64:2 66:11 copies 68:3 87:8 copy 22:11,14,15,16,17 35:8 40:5 47:17 67:20 68:5,7 69:4 70:20 83:3 86:20 87:1 92:18 93:23 corporate 21:5 28:5 67:1 correct 8:21 12:13,16 13:7,11,16 14:2,4,10 15:5,17,18 30:22 44:7 45:12 46:13,19 47:2 48:4,5,7 50:21 51:18 53:22 54:9,11 54:22 56:15 59:5 61:9,12 62:14,18 63:4 65:14 68:3,10 71:14,15 72:4 73:21 75:2,17 78:5 79:2,4 80:11 87:20,22 92:7 93:15 99:15 105:11 corrected 49:15 51:12 52:19 Correctional 14:14 counsel 5:3,17 105:12 105:16 counselor 81:23 country 73:17 County 8:5 9:18 11:3 14:14 95:17 104:14 couple 18:21 19:3,21 21:8 28:11 54:6,17 55:23 57:10 98:2 99:17 100:4 course 37:7 44:11 59:19 78:17 Court 1:1,17 105:5,22 cousin 11:12 cover 74:22 covered 15:3 47:20 coworkers 32:12 created 88:19</p>	<p>curious 49:21 current 8:3 14:19 currently 81:22 82:16 cutoff 89:10</p> <p>D</p> <p>D 1:19 2:3,3 Damron 3:8 16:12 23:22 24:2,6,11,18 25:2 27:6 33:12 34:1 37:1,11,16 45:10 Daniel 2:11 date 53:12,21 84:3 88:15 89:6 94:12,18 105:22 dated 3:5,6,7,9,16,18 3:20,21 4:1,2,4 35:5 35:13,14 36:6 82:22 85:7 86:18 87:1 88:8 89:23 92:16 93:20 dates 39:19 94:15 Daugherty 1:17 5:6 104:15 105:21 Davidson 2:7 6:13 DaVita 14:1 74:15 75:3 94:13,16,18,20 95:3 day 15:23 42:8 43:15 44:6,14,19 46:3 47:1 47:1 54:8,21 60:10 70:9 72:18 76:10 77:3 79:14 80:11 89:10 91:16 92:12 105:18 days 19:20 20:11 34:6 43:14,20,21,21 44:5 44:14,19 45:1,14,18 45:19 46:2 54:7,12 54:20 60:10 65:6 69:21 72:13,18,19 75:18 76:1,10 77:2 80:3,10,15,20 90:15 91:16 92:5,11 100:14 100:20 101:3 DCI 3:1 13:2,6,10 15:17 16:5 17:19 19:6 22:11 23:20 24:11,14 25:8 28:16 29:6 33:13 46:7 50:4 62:14 64:3 66:12 67:10 71:7,12 72:4 72:23 74:7 76:9 78:2 78:17 79:22 80:9,17 80:20 83:23 84:20 85:11,23 86:2,5 87:11,12 88:22 89:2 90:18,21 91:1 92:10 93:3,23 95:21 96:18 97:2 100:5 101:11 DCI's 18:3 23:17</p>	<p>Deaderick 2:9 dealing 28:17 62:6 Debbie 25:10 60:14 deceased 22:2 December 35:14 36:6 36:10,10 41:4,18,20 decided 46:18 78:19 decision 91:21 decisions 28:1,19,23 declined 62:5 defendant 1:9 2:6,21 48:13 49:16 105:4 defendant's 3:13 17:6 22:5,22 23:10 32:19 35:3,11 40:3 47:15 67:18 69:2 70:18 82:19 83:16 85:4 86:15,22 88:6 89:20 92:14 93:17 definitely 51:16 degree 10:4,9,17 11:2 deliver 52:15,22 demands 18:6 denied 15:2 99:3 Denise 3:8 16:8,12 23:22 24:2,4,11,23 29:2 33:12 37:1,7 39:17,20 43:17 45:10 depend 56:23 depended 91:9 depending 77:21 DEPONENT 104:9 deposition 1:15 5:4,6 5:13,18 6:2 102:23 103:7,104:5,18 depression 56:14,18 57:6,15 82:1,6,14 description 2:22 17:10 17:18 dialysis 1:8 6:14 8:18 8:19 11:17,18,19,21 12:2,5,23 14:1 23:7 71:16 74:15 78:15,18 79:3 94:5 105:3 died 33:3 34:3 36:10,10 differences 72:21 different 12:21 21:6 26:22 77:9 78:8 disability 3:17 15:1,4 83:22 disagreements 27:5,9 27:15 disappointed 38:3 disappointment 38:1 discovery 70:21 94:8 discriminated 7:8 discuss 19:6,8 25:15 50:15 60:8 89:1 102:22 103:2,12,15</p>
---	--	---	---	--

discussed 25:18,19 71:4	Edge 11:16,20	exact 56:3	field 77:9 78:8	19:13 22:1 24:21
discussing 73:12 89:14 103:6	education 10:2	exactly 12:5 52:8 98:11	filed 6:17 47:18	28:14 35:7 41:3,21
discussion 46:6 89:5	eight 8:10 54:7,21 61:3 65:12 72:9 91:8	examination 2:13 6:9 100:2 101:22 105:12	filing 5:18,22	42:20 45:23 54:19
discussions 89:16	eight-hour 19:19 20:2 20:3,4,10 28:10 54:5	except 14:23	fill 56:22 79:19	58:19 63:3 66:18
distance 73:14	60:6 64:22 65:5,6	Exhibit 2:19 17:5,6,9 22:5,8,21,22 23:1,10	filled 84:5,8	73:19 74:15 75:5
DISTRICT 1:1,2 105:5 105:6	66:2 72:8,12 87:23	23:13 32:19,22 35:3	finally 20:17	76:11 79:22 80:12,23
DIVISION 1:3 105:7	88:14 89:4 90:8,14 101:3	35:6,11,16 36:3,4,6	financial 79:20	82:21 83:4 85:6,20
divorced 7:22 8:1	either 5:14,20 60:21 92:2	40:2,3,5 47:15,18	find 6:16 7:7 16:4 46:10 86:1	86:17 87:2 88:9
doctor 53:9,23,23 54:20 59:4 61:2	eligible 15:10 81:11,16	67:18 69:2 70:18,22	finish 10:16	89:22 92:16,20 93:3
64:21 84:11 85:1	emergency 42:5,12	82:19,23 83:16,19	firm 66:19	93:12 94:22 96:8
88:4 91:5,15,18 92:8	employed 18:4 62:14	85:4 86:15,19,22	first 3:14 6:6 13:5 20:19 28:11 54:6,17	100:21
doctors 46:18	employee 4:5 23:18 25:8 93:19 97:7	87:3 88:6,10 89:20	59:14 61:21 62:1,5 91:23	full 6:11 19:4 59:13
doctor's 19:21 42:18 59:17	101:12	90:1 92:14,17 93:17	Fitzpatrick 8:4,4,6	92:5 102:12
document 17:8 22:7,21 23:12,14 32:21 35:16	employees 29:7,14,20 32:8 95:21 96:3	expectation 44:5	five 27:21 45:18 66:14 71:6	funds 15:20 16:2
36:2 83:18 93:21,23	employment 10:22 24:19 25:2,5,8 28:2	expected 28:18	floor 11:15 16:22 30:19 30:19 61:9 72:10	further 5:16,23 8:12 104:9 105:15
documentation 76:15	28:17 62:18,21 72:16 77:8 78:8 97:5	experience 28:16 62:2	Florida 8:17 12:15,17 12:19 13:3,5 16:18	
documents 3:14	end 34:18 40:8 95:22 99:16	expiration 96:20 105:22	94:6	G
doing 8:17,18 12:20 56:15 78:12,22 80:8 103:21	ended 24:19 25:2,5,9 42:4 66:8	explain 46:21	FMLA 41:15 83:7,11 84:15 97:8,12 102:3 102:10	gaps 79:19
Domingo 3:18,21 4:1,2 20:6 56:20 64:23	enough 15:8 31:23 59:12 101:14	extent 28:21 98:8	followed 24:2 92:10	gave 22:18 37:14 100:7 100:14
82:8 85:6,10,13	enroll 81:20	extra 43:15 45:20	following 96:20	general 19:13 26:7
90:13	entitled 84:16,20 97:17	extremely 42:4	follows 6:8	getting 22:11 49:2 59:23 73:9 76:18
Domingo's 49:14,19 51:21 87:2 88:9,18 89:23 90:20	ER 11:8		follow-up 102:1	83:13 85:18
DON 31:19 45:3	error 50:21		foot 30:14 39:11 41:22 42:1,3 62:7	give 22:17 37:10 39:21 55:23 59:16 62:10
done 45:2 81:1 88:23	established 83:13		force 102:13	74:1 86:7 96:22
double 65:21	evaluations 62:13		foregoing 105:10	given 26:15 68:5 73:13 98:12 99:3 101:6
double-wide 8:11	even 32:13,17 39:19 65:9		form 5:10 28:20 33:4 83:22 84:5 98:7	giving 49:3
down 12:23 61:17 62:11 68:11 77:12 103:22	evening 79:13		formal 10:2	glad 37:19
Dr 20:6 49:14,19 51:21 56:20 64:23 82:8	eventually 30:19 77:9		formality 5:9	go 8:12 9:12 10:5 12:22 14:13 20:8 30:10
85:6,10,13 87:2 88:9	ever 7:11,16 18:9 24:5 27:4 29:6 31:11,15		former 30:2 34:17	45:18 46:19,20,23
88:18 89:23 90:13,20	27:4 29:6 31:11,15 32:2 34:22 41:14		Fort 13:3	55:7 61:4 79:11,13
dropped 77:12	45:16,18 46:6,6 50:15 53:1 57:13,15		forth 20:16	90:15 91:5
due 38:1 42:2	62:20 64:21 74:7		found 61:6	goes 42:15
duly 6:6 104:20	76:19 79:1 82:3,5		four 7:21 13:19 43:14 43:20,21,21 44:5,13	going 6:15 14:13 20:7 26:1,2,14 28:9 35:23
during 51:8 55:4 60:11 60:12 70:5 83:12,13 97:5 103:12	83:6 85:7,19,22 86:4		44:19 45:1,14 46:2	37:4 39:14 57:18,20
duty 29:11 30:4,7 54:3 85:2 96:6,20 99:14 101:7	87:5 88:10 89:1,5,14 90:2,23 93:2,21 94:4		55:18 57:9 72:13,18	59:20 60:6 64:11
	95:14 97:6 100:9 102:14,17		73:17 76:1 79:21	66:2 67:1 73:6 75:8,9
	every 26:23 48:14 68:4 79:14 83:9 102:9		80:14,20	75:13,14 86:9 90:11
E	everybody 28:8 61:8 67:4		French 2:7,16,18 6:10 6:13 17:4 22:20 40:1	90:14 91:18,21 97:13 100:19
each 16:8,10 58:16 59:10	everything 26:6 28:5 59:8 60:7 103:10		50:19 70:16 99:17,21 101:5,23 104:2	good 20:9 57:5 62:13 76:19 79:23 101:12
earlier 87:10	evidence 5:13		Fresenius 12:6,9 95:9	101:12 103:21
ease 18:22 55:2			Friday 75:23	Goshay 30:4,11,11 96:8 101:8
			friends 16:9 25:20	graduate 9:20 10:15
			from 3:6,8,9,16,18,20 3:21 4:1,2,4 9:10,19 10:15 11:18 13:5,17	great 97:22
				greater 77:20
				Green 48:19,20
				growing 16:8
				guess 9:18 21:12 27:17 28:23 31:8,9 32:10 34:10 35:21 39:16,17

40:16 57:7,11 64:12 78:12 85:14 86:12 101:18 102:13 G-O-S-H-A-Y 30:11	20:1,6,7,9,13,18,21 21:4,12 24:15,15,20 24:21,22 25:11,22 26:15 27:17,20 30:12 30:13,14,14,16 34:2 37:17 38:13 49:1,3,6 50:6,10 52:6,11,12 52:14,22 53:2 58:21 59:6,9,20 60:16 64:13,17 66:12,13,23 67:1 80:7 hereto 5:21 6:1 high 9:20,22,23 10:2 highest 21:17 highlighted 17:21 him 22:18,19 26:23 27:1 30:6 31:7 34:3 62:9,9 78:14 85:20 90:13 91:10,12,12 92:8 hinder 35:22 36:15 Hinson 7:19,20 hired 16:21 history 10:22 home 11:16,19 37:5 73:21 homebound 79:8 honest 65:19 68:20 honestly 30:3 31:22 hope 7:2 horrible 73:23 84:12 hospice 14:5,6,7,11 15:7 78:9,12,14,20 78:22 81:17 hospital 11:3,10,20 12:21 hospitalization 42:2 46:16 hospitalized 42:17 hour 14:21 43:23 72:3 75:1 78:2,23 hours 17:22 18:21 19:2 19:4 41:11 44:1,6,14 44:19 45:1 46:2 54:8 54:21 55:4 60:10 61:3 65:13 72:9,14 72:18 76:10 77:3 78:4 80:11 81:1,3 91:16 92:6,11 100:13 100:21 Houston 11:11 Huh-uh 57:19 human 67:15 hundred 51:23 husband's 7:18 H-I-N-S-O-N 7:19	identification 17:7 22:6 22:23 23:11 32:20 35:4,12 40:4 47:16 67:19 69:3 70:19 82:20 83:17 85:5 86:16,23 88:7 89:21 92:15 93:18 ill 35:21 36:1 42:9 immediate 23:21 24:5 24:9 47:9 immediately 13:1 implication 78:7 impression 51:4,17 52:3 Inc 1:8 6:15 23:7 105:3 incident 30:6 included 67:3 including 71:7 incorrect 40:21 87:10 87:21 Index 2:13,19,23 3:23 indicate 62:20 inflamed 39:10 information 26:15 40:20 41:1 47:22 48:6 49:7 71:4,9 85:18 88:3,14 94:7 informed 49:14 60:12 instead 54:4 69:22 intend 81:20 interested 11:18 15:13 105:17 interrogatories 3:14 interview 16:15 intestines 42:16 introduced 5:19 invested 15:20 involved 28:19 33:15 Ireno 3:18 issues 25:18 43:1	92:16 93:14 June 85:7 86:18 junior 10:3,5,7,14 just 6:20 7:12 10:14 19:1,2,11,20 20:2,4 20:10,20 21:11 23:5 25:18 26:6,22 27:3 27:12,20 28:10 32:12 32:14,15,18 34:12 35:9,22 36:15,17 37:5 38:5,7,23 40:19 45:13,20 47:21 49:1 49:3,8 50:12,12 51:12 53:5 54:5 55:9 55:11 56:23 57:1,11 58:11,18 59:23 60:16 61:10 62:8 64:9,16 65:3,15,22 66:5,6,13 67:17,23 70:20,22 71:7,9,22 73:10,20 74:5,23 75:7,10 76:4 76:16,17 77:12 79:21 81:13 82:7 84:23 86:1 89:3 91:4,8,20 92:1 95:1 99:13 100:10,11 102:21 103:1,9,19,21	59:21 60:1,17,18,22 60:23 61:1 62:4 63:19 64:9,12,14 66:6,13 67:1 68:6 69:17,19 70:1,9 74:3 74:4 76:15,17 77:13 81:2 85:10,13,15,15 85:22 86:2,7,8,9 87:15,15 88:21 89:4 89:10,14 90:4,20 91:2 96:15 98:11,14 99:9 100:16 101:18 103:11,17,21,22 knowledge 32:6 44:15 45:9 46:4 48:8 49:18 58:10 62:15 76:8 81:16,18 84:15,17,18 84:22 93:1 97:10 known 84:10
hand 17:8 22:7 23:12 32:21 35:5,13 52:15 52:22 67:20 82:21 83:18 85:6 86:17 87:1 88:8 93:19 handed 70:20 handwritten 3:7 35:14 happen 64:11 69:17,18 happened 7:3 15:19 30:6 100:15 103:11 happening 29:13 happy 39:2 Haskell 44:9 having 6:6 51:22 57:14 65:21 73:13 79:17,18 86:10 102:15 Hazel 30:3,10 96:7 head 36:7 38:4 44:4 93:22 health 19:1 62:6 91:18 91:22 hear 46:6 97:6 heart 15:2 18:14,16,19 26:7 27:19 31:20 32:1 41:23 42:21 43:9,10,11 45:17 46:1,5,15 55:6 57:14 58:4,5 63:13 65:17 65:21 69:12 70:13 72:7 74:14 84:9 97:23 100:6,21 101:18 102:7 held 13:1 17:19 help 21:9 27:22 28:7 50:23 57:21 66:6 67:3 79:23 80:5,21 83:9 helped 30:18 79:20 81:3 helping 80:7,14 her 9:5 16:11 19:18	idea 84:6 88:18			
		J Jane 9:6 January 33:8 34:4 35:6 36:4,5 Jefferson 10:6 jeopardize 91:18 job 2:22 13:1,3,6,12 14:1,5 16:16 17:9,18 24:16 34:17 38:10,10 41:5 55:3 61:1 71:12 74:19 80:17 90:12,17 91:9 101:13 John 1:19 2:3,3 36:19 37:6 78:11 July 13:10 53:11,18 55:13 56:5,8,14 59:7 65:9 87:2 88:8,15 89:9,11,12,15,18,23	K Karen 19:9 20:1,15,16 21:15 24:4,8 25:4 29:1 32:9 39:18 44:11 45:5 47:10 48:17,21 50:1,15 51:23 61:22,22 63:6 63:12 86:7 89:5,16 90:6 91:13 92:22 keep 49:8 keeping 96:16 kept 20:15 58:21 75:8 kin 105:15 kind 26:21 27:3 59:14 65:15 knew 16:8,8,10 28:8 55:2 59:19 62:7 91:19,19 know 7:12 15:10,19 19:18 21:4 22:3 24:14,17 25:22 26:4 26:5,8,16 27:3,11,11 27:18,20,22 28:5,15 29:2,3,11,16,17,19 31:23 32:10,11,13,15 33:15,20 35:23 36:17 37:5 39:2,3 44:21 45:20 48:20 49:2,5,8 49:9,16,21 50:3,13 50:14 51:19,23 52:2 52:5 53:12 57:22	L lady 20:5 Large 1:18 5:8 104:17 last 17:21 20:17 37:20 73:11 81:5 103:13 later 30:19 57:9 Law 1:19 2:4,8 lawsuit 6:16 7:7 25:15 26:5,13 47:18 97:12 lawyer 50:12,12 98:12 98:16 102:22 103:2 103:12,15 leader 71:18,19 74:17 77:12,16 learn 12:23 learning 8:18 leave 3:2,4,5 14:12 23:6,8,17 29:20,22 30:13 31:7,17 32:4 33:4,10 34:2,7,15,18 35:1 36:3,5 39:5 41:3 41:15,22 42:20 46:11 53:14,18 63:8 68:20 73:3 75:3 83:7,11,12 83:13,14 84:16,19,21 95:22,23 96:4,21 97:3,8,8,17,18 98:5,6 98:13,20,21,23 99:3 99:4,6,16 101:16,17 102:3,5,11,15,19 leaves 29:7 31:13 led 28:4 51:1 Lee 3:6,9,16,20 4:4 21:4,11,20 28:5,14 32:9 47:12 61:17 66:23 left 16:1 24:4,14 25:14 30:23 81:14 legal 98:9

less 18:21 71:20 77:18 79:5	37:6 39:12 42:7 55:3 64:21 80:23 81:2	Mary 9:6	65:1,8 72:3 73:9 78:1 79:1,18 81:4 99:21 104:3	32:16 39:1 50:23 57:23 66:5 67:2 104:21
lesser 77:8,10,17	longer 77:11 79:16	matter 9:8 20:22 64:18 66:1 104:22	morning 75:5	notice 4:5 93:2,19
let 7:12 16:18 17:8 22:7 23:1,12 32:21 35:5 35:13 36:2 37:20 67:20 82:21 83:18,20 85:6 86:17 87:1 88:8 93:19 94:10 98:3 99:13,17 100:5 101:3	longevity 62:2	may 1:20 3:12,19,22 4:1,3 5:6,11,13,19 8:7 14:3 16:19,20 18:7 24:8 41:18,20 41:23 43:3,6,8 45:5 46:15 47:6 58:1,3 63:21 69:5,7,10,12 74:16 82:22 105:9,18	most 72:15	notified 60:15
letter 3:6,9,16,18,20,21 4:1,2,4 28:14 35:5,8 35:13,14,18,20 37:10 37:21 49:16,17 50:3 50:16 51:5 52:4 63:2 63:19,19 82:21 83:1 83:4 85:6,8,11,23 86:2,5,11,14,17,20 87:1,5,7,11,12 88:8 88:11,13,19,21 89:1 89:22 90:2,5,18 91:1 91:3 92:3,9,16,18,20 93:8,12	look 12:4 40:8 69:6 71:8 94:10,15	maybe 19:19 29:1 40:16 57:8 68:20	mother 8:9,13 14:16 24:20,22 79:6,8 80:7 80:22	number 22:8 48:10 70:22 71:2,5 77:7 92:17 100:13,14
letters 87:16 93:6	looking 49:3 52:13 94:7	ma'am 43:11 47:20 51:14 95:2	moved 8:19 9:18 11:12 11:16 16:23 24:15	nurse 2:22 11:7 12:19 16:21,22 17:2,10,19 21:15,16 23:23 24:2 27:8,8 38:11 47:7 61:15,20 71:16,20,21 96:18 101:12
Let's 11:9 12:2,2 16:18 39:16 58:5 93:8	looks 33:19 69:22 70:8 84:1	mean 16:9 26:16 27:8 29:18 31:19 32:12,18 34:9 39:1,2 46:20,21 46:22 60:23 68:6 69:9 73:5,15 74:12 77:10 83:12 102:16 103:9,22	much 9:12 26:23 47:20 58:8 66:9 75:11,16 76:5 99:23	nursing 10:4,10,13,17 11:2,11,14 12:6,20 77:9 78:8,10,12
life 37:13	lose 81:7	med 16:9 26:16 27:8 29:18 31:19 32:12,18 34:9 39:1,2 46:20,21 46:22 60:23 68:6 69:9 73:5,15 74:12 77:10 83:12 102:16 103:9,22	muscles 29:10	
light 29:11 30:4,7 54:3 85:2 96:5,19 99:14 101:6	lost 77:11,13 81:5	medical 3:2 23:5,8 29:8 87:8 90:3 97:18 98:6 98:13,21	myself 38:2 52:6 73:22 M.D 3:19,22 4:1,3	
lighter 19:2	lot 36:16 76:2 79:21	medication 55:7,13,15 55:17 56:13 57:1,5 57:15	N	O
like 14:21 15:9 16:9 20:11 21:2 26:8,9 29:9,12 31:3,12,17 32:4,15 33:19 35:10 37:5 38:6 57:4,22 59:18,23 60:2,19 62:3,5 65:1,6,12 67:16 69:22 70:2,6,8 74:4 75:6,21,22 77:15 79:9,19 84:14 84:23 90:9,16 91:19 93:5 96:7,16 99:9	loud 40:19	medications 56:4,4,10 56:12 58:2 82:17	name 6:11,13 7:14,15 7:18 9:5 20:7 68:8 69:17	object 28:20 37:17 98:7
line 40:9	love 78:16	member 9:7,16	Nashville 2:9	objection 99:1
list 37:22 56:1,3 71:6	lupus 79:15	memo 63:19	nature 7:7	objections 5:9,10
listed 69:18	Lyn 1:16 5:6 104:15 105:21	mentioned 12:14,21:11 MIDDLE 1:2 105:6 Midway 95:16	necessary 52:16,23	occasionally 26:12
literally 75:11	M	might 26:23 27:1,2 30:5 39:17 59:12 60:1,23 70:8 72:19 81:12 84:6 93:6 94:9 94:10,12,15,18 95:11	need 5:11 7:11 20:23 30:13 31:7 39:4 55:22 56:3 57:4 59:17,22 60:1 65:1 65:10,12 66:2 80:8 needed 19:19 27:22 39:15 43:13,13,15 44:3 45:21 52:14 55:22 59:16 60:4 64:14,19 80:18 85:19 85:20 100:11	off 9:19 29:10 33:5 34:4,6 39:11,15,22 56:19 60:19 68:17 70:8 75:14,23 76:2,3 80:5,5,20
little 13:19 46:22 53:6 73:16 76:5	machine 31:2 75:13 96:14	miles 13:20	needed 19:19 27:22 39:15 43:13,13,15 44:3 45:21 52:14 55:22 59:16 60:4 64:14,19 80:18 85:19 85:20 100:11	offer 61:21 62:1,4
live 8:8,13,16 9:3 12:17 13:18 73:16	machines 96:17	mind 37:17 38:14 84:12	needing 33:10	offered 5:13 60:23 61:15,19 101:13
lived 8:6,9 11:13 73:19 79:21	made 5:11 18:8 19:23 21:8 28:6 31:12,16 32:3 34:23 68:7 72:3 75:1 78:1,2,23 79:1 90:9 92:2	mine 33:23	negative 41:14 57:19 97:2,7 102:14,18	office 19:21,23 49:15 49:19 51:21 85:14 87:2 88:9,19 89:23 90:20
lives 9:4	major 32:13,16	minute 16:19 40:17 71:8 96:22	neither 96:10 105:15	offerings 1:19
living 36:8	make 29:1 41:14 47:21 50:13 91:21 92:1 97:7	minutes 99:18	Nerves 35:21	officially 60:15 76:14
location 73:13	manager 14:9 21:15,16 23:23 24:3 31:20 45:3 64:2 67:10 97:1 97:6 101:13	mirror 44:17	nervous 18:23 73:20	often 26:18
long 7:20 8:6 9:16 12:17 15:8 17:16 31:23 34:4 36:20	manager's 61:15,20	mistake 19:23 20:2 49:15	neurology 11:14,15	Oh 14:23 32:14 58:15 93:16
	manner 5:20 105:17	moment 30:8,9 44:12	never 60:12 65:3,7 73:10 76:14 84:11 91:13 92:10	okay 6:21,22 7:4,10 19:15,16 48:2 51:3 52:3 53:15 59:5,5 61:14 71:3 77:6 92:1 92:9 99:18,19 100:1 100:17 103:8 104:2
	many 54:12 59:10	money 34:20	next 2:23 3:23 42:2 47:1 69:17 70:6 84:3	old 13:19 60:21
	March 13:21	Montgomery 10:8,18 21:14,22 24:15,17 104:14	night 73:21	once 26:23
	Margaret 1:5,15 2:15 3:6,8,9,16,20 4:4 5:4 6:5,12 68:8 100:4 104:19,23	month 27:2	Nitroglycerin 55:21	one 7:6 9:2,2 12:18 18:6,6 22:18 25:12 31:8 49:12 50:17,21 58:9,12,16 60:15 68:18,20 72:2 74:20 81:13 82:10 85:19 87:16,19,20,20,20,21 87:22 95:10,16 96:10
	mark 17:4 22:20 40:1 marked 17:6,9 22:5,8 22:22 23:10,13 32:19 32:22 35:3,6,11,15 36:3 40:3 47:15,18 67:18 69:2 70:18,22 82:19,22 83:16,19 85:4 86:15,19,22 87:3 88:6,10 89:20 90:1 92:14,17 93:17	months 8:10 20:23 27:1 27:2 57:9,10 64:19	NORTH 1:3 105:7	only 18:15 24:20 25:12 25:19 27:17 30:7 31:19 55:1 60:5
	married 7:16,20	more 54:16 55:8 58:12	note 3:7 40:11	
			nothing 6:7 21:6,7,9 26:9,13 28:7 32:12	

63:19 66:15 76:21 90:11 95:4 97:20 100:19 open 102:13 opening 13:7,8 opportunity 12:22 16:4 order 90:16 ordering 31:2 originally 9:10 other 5:10,14,20 16:8 16:10 24:6 29:7 32:8 38:23 44:8 64:1,2,3 66:11 67:9 72:1 74:20 78:18 80:15,23 82:3 85:20 93:2 96:1 out 6:16 7:7 11:12,13 11:13 12:10 16:4 26:21 36:22 37:1 39:9 40:18 43:17 46:10 47:3 48:16,17 48:23 50:6 52:1 61:6 78:19 79:21,23 80:14 84:5,8 86:1 95:22 96:3 105:13 over 44:2 72:1,2 77:14 79:11,14 91:20 overburdened 38:5 overrode 29:1 own 57:2 O's 69:22	73:6 77:20,22 people 29:9 31:13,17 32:4 76:21 101:6 per 54:21 60:10 72:3 75:18 76:10 78:2 percent 36:18 52:1 performance 62:22 period 55:5 60:13 person 21:17 30:19,20 personal 3:4 23:17 25:18 34:7,10 78:21 84:19,20 95:22 96:4 97:8 personally 24:23 27:7 102:16 personnel 61:9 76:9 pertained 91:2 pertaining 58:18 Phillips 9:23 phone 73:22 phrase 101:19 physical 18:6 physician 18:20 81:23 82:4 Physician's 94:5,14 picked 90:3 pill 55:21 58:7,7,9,9 pills 55:18,19 Pius 9:13,14,17 PL 40:15 PLA 40:11,15 place 89:11 places 71:6 plaintiff 1:6 2:2 3:15 105:1 Plaintiff's 3:13 plan 15:4,6,11,14,16,21 81:11,17 please 6:11 7:11 17:5 22:21 40:2 43:5 47:19 62:10 point 12:3 21:3 24:12 25:13 29:5 38:5 39:4 39:18,19 48:8 52:8 56:10 57:17 59:1 60:5 62:9,12 67:16 69:8 79:4 95:16 96:22 99:10 pointblank 51:12 policy 3:3,4 18:3 23:6,8 23:17 84:21 portion 17:22 position 11:5,21 17:10 17:19 30:2,16 31:1,4 47:7 61:16,20 74:16 77:8,10,15,18 positions 96:13 positive 9:15 10:13 11:8 12:12 13:13	14:8 18:2 22:4 24:1 30:22 40:10,12 52:21 74:18 posted 49:8 68:2,4 prescribed 56:5 prescription 56:22 PRESENT 2:11 pressure 55:18 58:7,9 pretty 58:8 65:18 66:9 Prevacid 55:21 previously 96:7 primary 82:4 prior 8:8 45:17 57:13 58:4,5 59:6 100:5 prison 14:16 privilege 103:5 probably 12:3 13:20 49:18 73:1 74:3 81:3 84:8 problem 15:2 30:12 31:6 37:18 39:5 59:20,21 79:12 100:12 102:6,8 problems 27:4,15 34:14 38:21,22 41:17 42:22 62:7,21 Procedure 5:5 produced 94:8 production 3:14 professional 20:9,10 prompted 35:20 provided 5:14,21 psychiatric 11:10 pulled 29:9 purpose 5:14 purse 56:1 pursuant 1:16 5:4 pushing 76:4 put 14:15 56:20 72:10 91:22 97:20 P.C 2:3 p.m 1:21 104:6	rate 14:19 read 40:17 reading 105:13 readjust 21:1 real 35:9 100:4 really 7:6 25:20 26:15 29:3,16 31:21 49:21 56:23 57:1 62:8 74:3 86:12 98:11 99:11 reapplying 74:7 reason 68:22 76:12 85:16 100:19 102:9 reasonable 18:7,9,12 reasons 29:8 37:22 recall 16:17 22:11 25:12 27:12 29:13 30:1,8,9,10,12 31:6 32:6 35:7 38:21 40:5 41:17 42:23 43:2 49:6 51:15 53:4,5,9 63:23 68:21 70:10 83:3 84:11 86:10,13 86:19 89:14,16 93:11 95:20 96:23 97:1 Receipt 3:1 receive 46:7 51:5 84:15 84:19 92:18 93:2 received 19:17 50:2 51:10 62:17 63:2 92:20 receiving 35:8 40:5 83:3 86:19 93:11 reception 73:22 receptionist 19:22 49:19 51:20 recess 70:17 99:20 recognize 17:12,15 23:2,13 32:22 33:17 35:16 67:21 82:23 83:19 recollection 23:16,19 36:12 40:23 41:2 88:2 records 87:9 90:4 recuperating 58:20 80:23 100:23 recuperation 55:5 60:13 redundant 76:7 reference 63:2 referenced 50:17 51:5 51:10 references 36:3,5 referring 18:14,17 79:7 regarding 28:1 48:14 regardless 5:21 Regional 11:17 regular 26:20 rehab 55:9	related 34:15 release 54:1 released 53:10 59:2,4 85:1 89:17 relieve 79:12 remained 26:10 remains 15:23 remark 28:6 90:9 97:7 remarks 97:2 remember 21:3 31:9 32:13,17 35:10 38:6 39:19 40:7 43:1 44:12 45:2 52:14 70:13 72:20 73:1 87:13 89:12 94:9,11 Repeat 43:5 report 49:4 86:7 reported 21:23 48:20 104:17 Reporter 1:17 5:7 104:16 105:22 REPORTER'S 104:12 representing 5:3,17 reprocessing 30:17 request 39:4 requested 33:5 requests 3:14 required 46:15 requirements 80:17 reserved 5:12 resignation 36:13 37:23 resigning 36:22 37:2 resources 67:15 respect 83:10 response 3:13 9:15 10:14 11:8 12:12 13:13 14:8 18:2 22:4 24:1 30:22 40:10,12 52:21 57:19 71:5 74:18 77:7 responses 49:6 70:21 71:1 responsibilities 41:12 72:2 responsibility 72:1 responsible 74:22 restrictions 80:14 results 105:17 resume 12:4 19:3 retaliation 97:12 retaliatory 29:15 retirement 15:6,16 81:6,6,11,17 return 29:21 34:17 38:10 53:10 54:1,3 84:7 85:2 88:15 89:7 89:17 returned 38:9 42:20
P package 3:1 22:12 72:22,23 page 2:20,23 3:23 7:5 17:21 33:22 40:8 47:19,23 48:10 49:10 71:1 77:5 84:2 pages 105:10 paper 16:6 paragraph 47:23,23 48:6,7,10 49:10 50:18 51:6,11 61:13 63:1 73:11 77:5 paragraphs 40:18 48:4 part 30:17 69:10,14 partial 42:3,16 participate 15:11 participating 15:13 parties 5:3,17 6:1 105:13,16 party 5:14,20 passed 33:5 patient 25:10 30:20,21 44:3,16 patients 36:16,16 75:12 Paul's 9:9 pause 17:13 40:22 pay 14:19 38:16 41:7				
		Q quadruple 79:15 question 5:11 6:19 71:5 76:19 83:21 84:13 102:1 103:3,7 questions 5:10 6:16 70:23 83:6 88:1 99:22 102:23 103:16 104:3 quick 100:4 quickly 10:21		
		R raised 9:8 raises 62:17 73:10 74:1 ranking 21:17		

<p>100:21 returning 92:23 review 17:11 23:1 47:22 right 7:9 8:15 14:21 17:8 29:4 34:12 35:5 37:13,20 38:8,9 39:8 41:20,21 42:9 43:11 44:13 47:1 49:10 50:6,7,9 53:3,5,6,17 54:15 57:3,13 58:5 58:11 60:19,21 61:13 63:1,13 64:5 65:10 68:8 69:11 73:8 75:21 76:6 77:5,20 78:2,4,6,23 79:22 80:15,22 84:8,10 86:17 88:13 89:22 96:9 97:11,14 98:15 98:19 99:12 RN 28:17 45:21 68:4,9 RNs 44:8,13,22 71:22 96:10 Road 8:4 roads 13:19,20 73:16 73:17 room 42:5,12 71:22 roughly 10:16 Rules 5:5 ruling 5:12 run 10:21</p> <hr/> <p style="text-align: center;">S</p> <p>s 23:7 69:18,19 SAITH 104:9 salary 73:4,7 same 5:22 7:5 34:20 38:10 41:5,7 55:15 56:7,11 73:2 74:10 74:20 88:3,13 89:3 99:1 Saturday 75:23 save 90:12,16 saw 52:12 Saxon 1:19 2:3,3,17 22:15,16,17 28:20 50:17 70:14 98:7 99:1,19 100:3 101:21 104:4 saying 85:23 says 37:21 40:11 48:13 49:14 73:12 77:7 78:6 87:23 94:21 scale 77:22 scared 65:18,19,20,22 74:8,10 schedule 3:11,12 9:13 20:3 21:2 26:3 43:4,7 43:20 44:17 45:2,11</p>	<p>45:17 46:8,11 58:18 59:13 60:2 61:10 67:20,23 68:1,5,23 69:5,7,15,23 72:6 75:18 76:8,23 100:7 100:9 schedules 44:21 45:4,8 60:9 61:6 69:20 70:11 scheduling 75:4 school 9:20,22 10:1,2 second 50:2,3,16 84:2 87:12 secretary 48:19 section 18:1 74:21,23 see 11:9 12:2,3 16:18 18:1 26:18,23 27:1 29:6 39:16 40:11 48:10 49:12 50:10 58:5 88:16,23 93:8 97:23 seeing 80:7 seek 77:8 78:7 seems 93:5 seen 24:20,21,23 85:8 87:5,7 88:10 90:2,3 93:21 94:2 self-employed 95:14 send 93:23 seniority 77:13,14 sense 27:23 78:21 102:4 sensitive 34:12 sent 19:21 22:16 76:15 85:22 87:11 88:21 90:20 94:17 sentence 37:21 73:11 separate 99:10 series 6:15 set 3:14 44:21 45:8 105:13 setting 45:11 several 20:16 47:4 59:6 59:9 62:13,17 shakes 93:22 shape 42:19 shift 72:15 88:14 92:5 shifts 19:19 20:3,4,11 20:19 25:22 28:10 43:14 54:4,5 60:6,18 60:18,21 64:7,22 65:5,7 66:3 72:8,11 72:12 87:23 89:4 90:8,10,14,15 91:7 short 31:20 40:18 43:17 70:14 shorter 20:19 Shorthand 5:7 104:15 short-term 3:17 15:1,3</p>	<p>83:21 siblings 9:1 sick 11:16 36:9 42:4 55:11 69:21,21,21 74:11 101:15 signature 6:2 22:9,10 33:17,18,21 40:9 84:2 significant 27:6,9 28:19 38:22 41:17 72:21 signing 105:13 SIMS 2:8 since 8:7 9:18 24:19 25:2,5,8 56:8,10 64:15 78:20 79:21 sir 6:18 7:17 8:23 9:21 16:3,13 17:14,20,23 18:5,11 21:19,22 22:1,10 13:18 23:3,9 23:15,19 24:1,7,10 24:13 25:3,6,17 27:11,13 31:5,14 34:8 35:2,17 38:6,12 38:15,17,20 39:23 40:7,14 41:6,8,10,13 41:16 44:18,20 45:7 45:9,15 46:4,9,17 47:5,8,11,14 48:12 49:11,13 50:11 51:7 53:19 54:2 62:15,16 62:19,23 63:11,16 64:4 65:17 66:13 67:8,14,16 68:13 69:1,16 70:12 71:17 72:5,5,17,19 77:1,4 77:17,19 78:3 80:2 80:12 81:12,18,21 82:2,9,15,18 83:2,5,8 83:15 84:1,4 85:3,9 86:21 87:4,6,14,18 88:5,12,17,20,23 89:19 92:13,19 93:1 93:16 94:1,3 95:6,13 96:12 97:4 100:8,15 101:1,4,9 102:20 103:14,18,20 sister 9:2,4 11:15 16:7 42:11 79:13 80:8 sit 27:12 sitters 79:9,12,18 situated 59:8 situation 18:22 55:10 six 8:10 slash 12:6 45:3 68:18 sleep 57:21 slow 103:22 some 11:10 19:19 21:3 27:22 39:4,9 54:5</p>	<p>56:8 57:17 70:5 72:20 76:21 77:18 98:1 101:6 somebody 19:6 21:11 28:3 37:15 49:22 75:14,14 something 7:1 30:6 35:10 56:17 57:21,21 85:19 95:1 100:11,15 102:18 sorry 19:15 95:8,10 so-and-so 32:14 span 76:3 speak 6:7 48:15 104:20 specialized 78:16 specific 26:9 31:10 39:1 specifically 86:13 103:1 speculation 28:22 split 71:23 spoke 48:22 66:21 sporadic 27:3 sporadically 26:21 Springs 8:14 9:4,11 11:4 21:18,21 24:21 26:19 79:10 spurs 39:10 St 9:9,13,14,17 staggered 75:12 stand 12:8 68:14,19 70:1 stands 69:19 start 64:16 77:14 started 12:5 16:17 23:20 44:23 45:14,23 56:19 57:9 59:2 64:18 78:22 81:13,13 state 1:18 5:8 6:11 10:6 10:8,18 104:13,16 statement 21:8 59:17 67:2 94:22 STATES 1:1 105:5 stating 19:22 Statute 5:15,21 stay 39:11 78:15 stayed 11:22 steps 103:11 still 14:11 15:21,23 20:23 22:14 24:11 25:13 34:13 36:8 39:20 44:3,10 47:6 55:7,13 56:17 58:23 58:23 64:19 66:2 72:13 78:4 100:22 stipulated 5:2,16,23 stipulation 1:16 STIPULATIONS 5:1 stomach 42:13,15,18</p>	<p>55:21 58:7,9 62:7 stop 42:10 55:8 57:5 stopped 57:7,10 store 95:16 straight 20:8 strain 79:20 street 2:9 9:9 42:13 Streeter 30:5,18 96:8 101:7 Streeter's 31:1 stress 81:23 82:5,13 stressed 73:13 stressful 55:3 74:5 76:4 stretch 81:2 stuff 32:18 96:15 submit 37:22 submitted 83:23 85:10 suggested 95:11 Suite 2:9 Sunday 75:23 Sundays 70:2,3 supervisor 23:21 24:5 24:9 47:9 64:3 67:10 97:1,6 supplies 96:16 supplying 96:15 supposed 90:22 sure 7:13 11:1 15:15 28:23 29:12 47:21 50:13 51:19 52:1,4,6 52:9 68:6 92:1 94:16 surgery 39:7,8,11,15 41:22 42:1 79:16 sworn 6:6 104:20</p> <hr/> <p style="text-align: center;">T</p> <p>take 7:11,12 19:14 39:9 40:17 55:11 69:5 70:14 71:8 74:13 75:10 86:2 89:11 90:18 99:17 101:15 taken 1:15 5:4,6 57:13 57:15 70:17 78:11 99:20 102:4,15 taking 39:21 41:15 56:13,17 57:3,5,9 58:6 80:6 82:16 97:3 97:8 102:18 talk 26:12,16 33:10 36:20 37:1,7 48:17 48:18 50:1 86:6 talked 16:7,11 20:16,18 25:11,20 36:19,22 37:6 52:17 53:6 59:5 59:9 63:5 87:10 talking 20:14 25:12 26:6 28:2 43:8 87:17 tax 94:21 team 71:18,18 74:17</p>
---	---	--	---	---

77:12,15 tech 25:11 30:17 technical 31:4 96:14,14 96:15 technician 30:21 technicians 44:16 tell 6:20,23 16:14 17:11 19:10 23:1,4 33:2 39:14 48:3,23 49:1 49:22 51:9 54:12,15 54:23 58:16 59:10,15 61:19 64:21 69:6 76:19 86:8 94:19 97:13 102:9,17 103:19 telling 19:18 27:20 51:1,21 75:8 103:20 103:21 Tennessee 2:9 Teresa 44:9 terminated 63:15,17 97:16 98:4,22 99:6 101:10,16,17 102:2 102:10 103:4 termination 4:5 93:4 93:13,20 testified 6:8 tests 55:8 Texas 11:11,12,18 Thank 7:13 99:22 thanked 62:9 their 15:3 29:10,18,22 30:1 72:2 77:22 94:17 96:13 thereof 105:17 they'd 74:10 thing 25:19 27:17 59:14 74:11,20 81:5 97:20 things 29:11 31:3 32:14 32:16 49:2 56:7 79:9 79:19 think 7:1 16:6,19 17:3 22:16 27:7 28:2 31:12,16 32:3 34:23 35:15 37:12 39:20 44:9 45:13 46:14 50:11 53:12 57:17 58:8 64:6 69:4 76:12 76:22 78:6 90:19 93:7 97:14,14 98:4 98:21 99:5,7 101:10 thinking 30:5,14 91:3 thinner 55:20 thinners 55:20 though 94:20 thought 14:13 18:20 19:1 29:14 54:23 55:5 61:4 64:12,13	65:10,20 66:7 83:10 84:12 90:11 101:14 three 7:21 19:20 20:11 27:1,2 39:12 45:18 54:7,14,16,20 57:8 60:10 65:6 72:19 76:1,10 77:2 80:3,10 100:20 through 10:21 13:21 15:21 37:4 47:23 48:7 66:18 73:23 throughout 38:18 62:17 throwing 42:10,11 Thursday 75:22,22 time 5:11,12 11:23 17:16 18:15,17 20:17 21:1 31:20 33:5 36:8 38:1,7 39:15,22 44:8 45:23 46:1 47:9,12 51:15 53:4 55:12 58:19 64:19 75:16 76:3 79:5 80:18 97:5 times 20:16 21:6,9 26:22 59:6,9 today 32:17 87:10 93:11 94:2 together 57:2 99:7 told 19:11 20:1,7,9,13 20:21 21:5 25:22 37:4,16 38:13 45:13 50:1,6,8,22 52:14,15 52:22 59:20 60:14,16 62:9 64:5,13,17 65:23 66:4,13 76:16 85:17,19 88:4 90:13 91:14 92:3,8 101:5 103:8,9 Tolliver 20:6 49:20 Tompkins 9:6 total 38:1 touch 26:10 66:16 67:6 67:9 trailer 8:11 transcript 105:11 travel 73:14,20 treat 82:5 treated 82:10,13 trial 5:19 tried 14:17 42:6 98:1 trip 74:5 trivial 32:12,14,16,18 38:23 trouble 39:21 55:4 Troy 10:8,18 11:17,20 true 76:20 105:11 truth 6:7,7,8 103:19,20 104:20,21,21 try 37:1 57:1 66:16	67:6,9,15 78:20 79:19 trying 26:8 27:7,12,18 27:18 28:9 42:18 50:13 51:16 53:11,13 53:20 59:7 61:4 65:4 78:17 86:1 89:8,10 89:15 93:7 94:9,11 94:14 98:17 Tuesday 70:6 75:21 turn 47:19 71:1 turned 60:7 62:11 Tuskegee 13:15,17 71:13 72:6 73:18,19 80:2 twice 21:5 two 10:3,4,11,14,16 13:19 19:20 20:11,12 20:20,21,23,23 21:5 26:3,23 30:7 39:12 40:17,18 55:18,20 64:10,11,14,16,17,18 64:19,23 65:2,5,7,11 65:13 66:3,15 71:22 71:23 72:9 73:17 87:16,23 88:14 89:4 90:8,10,15 91:16 92:5,11 98:14 99:10 Tyndal 25:10,16 26:11 60:14 Tyndal's 76:23 type 56:21 typed 20:5	UNITED 1:1 105:5 Unless 100:15 until 8:10 11:17 13:10 14:3 28:11 42:21 44:1 45:23 46:11 75:6 update 59:23 updated 48:13 58:22 upkeep 31:3 upset 18:23 34:9 35:9 upsetting 34:11 used 5:13,20 65:16 70:10 V VA 11:10 vaguely 35:9,10 40:7 verbal 63:20 verify 71:9 versus 72:22 very 18:22 34:12 35:21 36:1,9 38:7 62:13 74:5 76:19 99:22 vested 15:16 81:8 violently 42:9 volunteer 45:21 volunteered 43:16 vs 1:7 105:2 W W 68:18 wage 94:21,21 wait 20:20 64:9,16 waived 5:19 6:3 105:14 waiving 5:22 Walton 13:3 want 7:5 8:11 19:11,12 19:13 35:22 36:15,17 37:3 47:21 55:9,23 56:2,23 67:17 78:9 91:5,6 92:1 97:20 101:14 103:17,19 wanted 14:17 40:19 49:4 54:4,18 55:2,11 56:20 57:1 61:1,3,21 62:1,4 64:22 65:4 70:23 71:7 78:15 91:6,7,22 99:9 wanting 92:11 wasn't 21:7 26:1,2,22 27:20 31:23 52:16 55:6 61:10 62:8 66:14 69:8,13 73:6 85:18 91:17 98:13 99:3 Watson 2:11 way 7:3 28:12 37:9 53:5 75:12 77:18 83:9 94:17 95:15	97:23 Wednesday 1:20 75:21 75:22 105:9 week 19:20 20:11 43:15,20,21,22 44:6 44:14,19 45:1,14,18 45:19 46:2 48:14 54:7,12,21 59:6 60:10 65:6 70:5 72:13,18,20 75:19 76:2,10 77:2 78:4 80:3,10,15,20 90:16 91:16 92:5,11 100:20 weekly 45:4,8 49:4 weeks 18:21 19:3,21 20:12,20,21,23 26:3 28:11 39:12 47:4 54:6,17 64:10,11,14 64:16,17,18,23 65:2 65:6,7,11,13 66:3,15 72:9 88:1,14 89:4 90:8 95:4 98:2 well 20:18 23:5 25:20 31:2,9,19 32:10 44:23 51:16,20 52:5 58:21 59:11 60:5 64:15 65:18 67:23 69:8,10 70:8 71:20 74:13 76:14 77:21 78:11 80:23 81:8 83:20 85:16 86:6 89:8 93:11 94:7,14 98:15 101:12 Wellbutrin 56:16 went 10:6,8,14,16 11:9 11:11,13 14:18 37:5 37:16 50:5 63:11 66:18 72:7 78:1 81:10 87:8 90:12 92:8 95:22 96:3 were 7:20 12:14,19 14:9 15:16,20 16:10 16:21 18:4 23:17 25:21 26:6 29:9 34:4 34:23 38:3,5,9,21 39:14 42:21 43:17 44:8 45:16 46:11 47:6 48:16,23 49:2 49:23 52:12 53:20 55:4,13 56:4,13 58:1 58:23 62:14 63:7,15 63:17 69:10 70:3,10 71:16,18 72:21 73:20 74:21 76:20,21 79:23 81:10 82:3 84:16,20 87:16 89:8,15 90:13 90:22 95:23 96:4,10 96:10,13,14 97:17 98:4,22 99:5 100:22
---	--	---	--	---

<p>101:5,10 102:2 103:4 weren't 16:9 46:23 69:14 80:4 100:19 wet 21:1 we'll 7:12 we're 25:20 79:18 we've 46:14 47:20 63:5 while 12:15 23:17 26:18 29:6 32:2 48:15,17,22 62:13 63:7 whole 6:7 74:23 104:21 wide 102:13 wish 98:16 withdrawn 16:2 witness 6:1,2,6 36:7 38:4 44:4 93:22 100:1 105:12 wonder 30:3 wonderful 33:12 34:1 37:8 words 97:21,22 work 3:11,12 9:12 14:13,16 17:22 18:20 19:18,19 20:3,4,19 20:20,22 21:20 25:23 26:2,2,8 27:19 28:10 29:21 37:9 38:18,22 41:18 42:4,10,20 43:1,3,6,16,16,19 44:2,13,21 45:20 46:8,11,19,21,23 47:3 53:9,10 54:1,3,5 54:7,13,16,18,20 55:1 58:14,18,19 59:9,12,13,19 60:6 60:17,20 61:3 63:7 63:10 64:6,10,16,22 65:5,10,12 66:2 67:20,23 68:1,5,15 68:23 69:4,7,19,23 74:2 75:18,21,23 76:9 77:2 78:1,9,22 79:11,14 80:10,18,19 81:10 84:7 85:1,2 87:23 88:15 89:7,18 90:7,10,14 91:6,7,15 91:19 92:5,23 94:4 96:1,5,19 99:8,9 100:10,20 101:3 102:12 worked 10:23 11:3,8,9 11:14,16 13:10,15,21 14:3 19:2 26:19 29:6 45:14 71:7 72:8,19 74:15 75:20 77:21,23 79:10 80:1 95:21 99:14 100:6,11,13 working 9:13 14:11</p>	<p>24:11 43:13,14 65:16 76:21 78:19 80:6 89:3 workweek 46:2 worried 18:23 worse 84:13 wouldn't 60:20 73:8,9 74:13 80:13 84:9 98:3,16 102:5,6,7 wrapped 99:7 write 35:18,20 92:9 wrote 35:15 36:12 50:5 W's 68:14 W-2 94:21</p> <hr/> <p>X</p> <p>X 70:6 X's 69:23 70:1,2,5,10</p> <hr/> <p>Y</p> <p>yeah 17:3 29:9 43:21 44:10 51:23 52:10 64:23 65:22 67:23 70:16 year 8:17,20 9:22 12:5 12:18 17:1 38:19 57:8 years 7:21 9:19 10:3,4 10:11,14,16 12:7 27:21 55:23 57:22 66:15 y'all 37:14 94:8 y'all's 44:17</p> <hr/> <p>Z</p> <p>zeroes 68:16</p> <hr/> <p>\$</p> <p>\$25 73:8 75:1 \$27 78:23</p> <hr/> <p>#</p> <p>#66 1:17 105:21</p> <hr/> <p>0</p> <p>03 33:8 34:5 04 41:4,18,20 05 13:10,12 41:19,20 41:23 45:5 56:14 65:9,12 93:20 07 13:21 14:3 74:16,16</p> <hr/> <p>1</p> <p>1 2:22 17:5,6,9 1/6/03 3:6 1:05 1:21 10 3:11 43:14,21,23 44:1,6,14,19 45:1 46:2 47:23 48:6</p>	<p>67:18 72:13,18 10th 70:7 10-hour 60:21 100 2:17 36:18 101 2:18 104 105:10 11 3:12 11:6 12:7 35:14 69:2 11th 36:6 11-hour 43:14 11/30/04 3:9 12 3:13 60:10,18 64:7 70:18,22 76:10 77:2 80:10 91:8,16 92:5 92:11 100:20 12-hour 90:10,15 91:7 12/11/03 3:7 13 3:16 76:10 77:3 80:10 82:19,23 92:6 100:21 13-hour 25:21 54:4 60:17,18 64:7 13/03 3:5 14 3:17 47:23 48:7 83:16,19 14th 1:20 105:9 15 3:18 48:10 85:4 16 3:20 86:15,19 17 2:22 3:21 77:5,6,7 86:22 87:3 18 4:1 88:6,10 1824 8:4 19 4:2 89:20 90:1 1968 9:23 1983 10:20 1999 8:2</p> <hr/> <p>2</p> <p>2 3:1 22:5,8 40:8 2:07CV682WKW 1:7 105:8 2:30 75:6 20 4:4 9:19 87:2 92:14 92:18 20th 85:7 2000 8:7,20 16:20,20 95:18 2003 35:6,14 36:4,5,6 2004 38:22 41:15 2005 3:11,12 24:8 43:3 43:6,8 46:15 47:6 53:18 55:14 56:6 57:14 58:1,3 63:21 67:21 68:23 69:5,7 69:12 82:22 85:7 86:18 87:2 88:9,16 90:1 92:17 2007 94:22 2008 1:21 105:9,18</p>	<p>21 4:5 88:8 93:17 2119 1:19 2:4 22 3:1,2 49:10 50:18 51:6,11 23 3:4 55:13 56:5 23rd 53:11,18 56:9 59:7,7 89:9,11,12,15 24-hour 79:9 25 13:20 63:1 88:16 25th 89:18 26 61:13 92:17 26th 89:23 93:14 27 86:18 27.95 14:21 2700 2:9 28 13:20 29th 36:11 105:18</p> <hr/> <p>3</p> <p>3 3:2 22:21,22 23:1 47:19 48:1 3rd 1:19 2:4 3,000 95:1 3:15 104:6 30 9:19 34:6 82:22 315 2:9 32 3:5 35 3:6,7 35203-3314 2:5 37238-3001 2:9</p> <hr/> <p>4</p> <p>4 3:4 23:10,13 48:10 49:10 71:2 40 3:9 78:4 47 3:10</p> <hr/> <p>5</p> <p>5 3:5 32:19,22 36:3 5/30/05 3:16 5:30 75:5</p> <hr/> <p>6</p> <p>6 2:16 3:6 35:3,6,7 36:4 6/13/05 84:3 6/20/05 3:18 6/27/05 3:20 67 3:11 69 3:12</p> <hr/> <p>7</p> <p>7 3:7 11:6 35:11,16 36:6 7/20/05 3:21 7/21/05 4:1 7/26/05 4:2,4 70 3:13</p> <hr/> <p>8</p>	<p>8 3:9 40:2,3,6 82 3:16 83 3:17 85 3:18 86 3:20,21 88 4:1 89 4:2</p> <hr/> <p>9</p> <p>9 3:10 47:15,19 77:5 93:20 9th 46:15 47:6 69:12 9-30-2008 105:22 92 4:4 93 4:5 95-year-old 79:6 99 8:2</p>
---	---	--	---	---

DIALYSIS CLINIC, INC.
Job Description

JOB TITLE: Charge Nurse

EXEMPT: No **JOB CODE:** N003
DIVISION: Dialysis Clinic **DEPARTMENT:** Nursing Service
REPORTS TO: Clinical Supervisor and/or Nurse Manager

SUMMARY: Under the direction of the Clinical Supervisor and/or the Nurse Manager, the Charge Nurse is responsible for the clinical management of the dialysis unit and the supervision of all nursing personnel in order to ensure a safe, efficient dialysis for all patients by performing the following duties.

ESSENTIAL DUTIES AND RESPONSIBILITIES include the following. Other duties may be assigned.

Performs all functions and duties as outlined in the job description for a Registered Nurse.

Responsible for patient care staffing, matching patients needs with staff capabilities and experience to maximize staffing resources.

Assures the transcription and implementation of physician orders.

Coordinates with the Clinical Supervisor and/or the Nurse Manager the scheduling of patients to ensure accommodations of all patients per the Clinic's policies.

Assists patient care staff as necessary in initiating, monitoring and termination of dialysis treatments.

Directly or indirectly makes appropriate referrals to dietitian, social worker, physician and transplant center, as necessary.

Supervises initial and ongoing patient teaching. Reviews and documents patient education as necessary to ensure compliance with ESRD Network, regulatory agencies, DCI's CQI Program and the individual clinic's requirements.

Responsible for obtaining consent forms and reviewing clinic policies and information with new patients before initiation of dialysis treatments.

Coordinates obtaining medical release forms and updating of consent forms annually, or as required.



Charge Nurse**Page Two**

Interacts with hospital and acts as a liaison between in-center dialysis unit and the hospital in order to ensure continuity of care.

Maintains emergency preparedness procedures including CPR certification, fire drills, emergency power failure and routing check of emergency cart supplies.

Reviews patient flow sheets for completeness, appropriateness and accuracy of documentation.

Maintains medication inventory of the unit and coordinates the ordering process with the Clinical Supervisor and/or the Nurse Manager. Works with Technical Manager to ensure adequate stocking of unit supplies.

Assumes responsibility for communicating patient problems to physician and implementing and documenting orders.

Oversees responsibility for monthly patient lab work in accordance with the Clinic's policies and procedures.

Reports housekeeping and equipment problems to technical staff and follows up as necessary.

Coordinates and participates in the completion of short term and long term care plans per the Clinic's policies and procedures.

Reviews patient data in accordance with ESRD Network criteria identifying problems and formulating corrective action plans.

Assists the Clinical Supervisor and/or the Nurse Manager in administrative and supervisory duties.

Oversees primary nursing teams for completion of monthly assessments.

Participates in patient care conferences, medical rounds and reviewing charts.

Maintains a clean and orderly work environment.

Must be able to recognize and respond to emergency situations.

Knowledgeable and able to implement safe and effective infection control procedures in accordance with the Clinic's policies and procedures.

Knows and practices procedures related to hazardous waste disposal.

Actively supports and promotes appropriate attitude and loyalty to management.

Charge Nurse

Page Three

Knowledgeable and able to implement emergency, fire and disaster protocols.

Knowledgeable of and utilizes the occurrence reporting system in accordance with guidelines set forth by the Clinic.

Assists in the teaching and training of new staff members as directed and supervised by the Education Coordinator, the Clinical Supervisor and/or the Nurse Manager.

SUPERVISORY RESPONSIBILITIES:

Is responsible for the overall direction, coordination, and evaluation of all patient care personnel.

Carries out supervisory responsibilities in accordance with the Clinics policies and applicable laws. Responsibilities include interviewing, hiring, and training employees; planning, assigning, and directing work; appraising performance; rewarding and disciplining employees; addressing complaints and resolving problems in coordination with the Clinical Manager and/or the Nurse Manager. --

QUALIFICATION REQUIREMENTS: To perform this job successfully, an individual must be able to perform each essential duty satisfactorily. The requirements listed below are representative of the knowledge, skill, and/or ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

EDUCATION and/or EXPERIENCE: Completion from an accredited Registered Nursing Program; and six months to one year experience in dialysis is preferred; experience in critical care nursing or in a supervisory role is preferred. Must successfully complete DCI's comprehensive training program.

CERTIFICATES, LICENSES, REGISTRATION:

Must possess and maintain a current license in the State of AL as a Registered Nurse and maintain certification in CPR.

LANGUAGE SKILLS: Ability to read, analyze, and interpret professional journals, technical procedures, or governmental regulations. Ability to write reports, business correspondence, and procedure manuals. Ability to effectively present information and respond to questions from physicians, managers, patients and staff.

MATHEMATICAL SKILLS: Ability to add, subtract, multiply, and divide in all units of measure, using whole numbers common fractions, and decimals. Ability to compute rate, ratio, and percent and to draw and interpret bar graphs.

REASONING ABILITY: Ability to define problems, collect data, establish facts, and draw valid conclusions. Ability to interpret an extensive variety of technical instructions in mathematical or diagram form and deal with several abstract and concrete variables.

Charge Nurse

Page Four

OTHER SKILLS and ABILITIES:

Interpersonal skills to effectively work with patients and other members of the patient care team.

PHYSICAL DEMANDS: The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is regularly required to stand; walk; use hands to finger, handle, or feel objects, tools, or controls; reach with hands and arms; and talk and hear. The employee frequently is required to sit; climb or balance; and stoop, kneel, crouch, or crawl.

The employee must frequently lift and/or move up to 50 pounds. Specific vision abilities required by this job include distance vision, color vision, peripheral vision, depth perception, and the ability to adjust focus.

WORK ENVIRONMENT: The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Since this is a healthcare environment, there is the possibility of exposure to infectious/contagious diseases, hazardous chemicals and materials, needlesticks, and blood and body fluids. Further information regarding this position's specific work environment and exposure category will be provided during orientation. *This position is classified as a CATEGORY I.*

WORK HOURS: DCI reserves the right to alter your work hours and schedule in order to accommodate patient scheduling and staffing.

I have read and understand the above and have been given the opportunity to ask questions.

Margaret Nimmo RA
Employee Signature

6/14/00
Date

Carolyn Green
Witness

5/11/00
Date

THE MEDICAL BUILDING
309 N. Prairie St.
Union Springs, AL 36089
Phone # 334-738-2146 Fax # 334-738-5021

2853

July 20, 2005

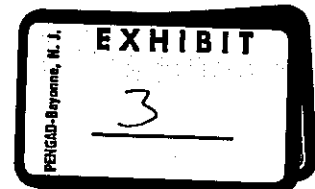
Re: Margaret Cater

To Whom It May Concern:

Mr. Carter is able to work 8 hour shift for two weeks. Should you have any question, please do not hesitate to call the above number.

Sincerely,

I. Dominga, MD



2855

THE MEDICAL BUILDING
309 N. Prairie St.
Union Springs, AL 36089
Phone # 334-738-2146 Fax # 334-738-5021

July 21, 2005

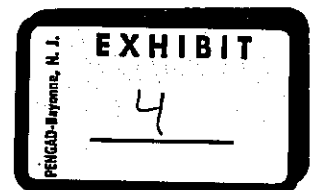
Re: Margaret Cater

To Whom It May Concern:

Mr. Carter is able to work 8 hour shift for two weeks. Ms. Cater will be able to return to work on July 25, 2005. Should you have any question, please do not hesitate to call the above number.

Sincerely,


I. Domingo, MD



103

THE MEDICAL BUILDING
309 N. Prairie St.
Union Springs, AL 36089
Phone # 334-738-2146 Fax # 334-738-5021

July 26, 2005

Re: Margaret Cater

To Whom It May Concern:

Ms. Carter is able to work a full shift for 2 days/one week. Ms. Carter will be able to return to her regular duties. Should you have any question, please do not hesitate to call the above number.

Sincerely,

I. Domingo, MD



DIALYSIS CLINIC, INC.

(A Non-Profit Corporation)

109 W. Conecuh Street
Union Springs, Alabama, 36089

Ph. 334-738-5715
Fax 334-738-5734

RADHA K. KROTHAPALLI, M.D.
Medical Director

P. L. (LEE) ASHBURY, JR.
Administrator

July 26, 2005

Ms. Margaret Carter
1824 Fitzpatrick Road
Fitzpatrick, Alabama 36029

Dear Margaret:

I am sorry to inform you that you have exhausted all leaves available to DCI employees. You were on Family Medical Leave the first time from October 29, 2004 till December 6, 2004. The second Family Medical Leave started on May 9, 2005, and ended on June 23, 2005. You were granted a Personal Leave from June 23, 2005 through July 23, 2005.

I am sorry you are not able to return to work. It is unfortunate that I must inform you that DCI is removing you from active employment effective yesterday, July 25, 2005. You will receive information regarding your rights to continue your health insurance under COBRA from our corporate insurance department.

I know that you have discussed with Karen Hamilton, R.N. Nurse Manager the possibility of working two eight-hour shifts. Eight-hour shifts don't work with the clinics scheduling. However, we might be able to accommodate, on a temporary basis, two twelve hour shifts. Two twelve-hour shifts per week would also qualify you for single health care coverage. One final note, we must have physician statements that clearly indicate that you can return to work, and clearly identifying any limitations if there are any.

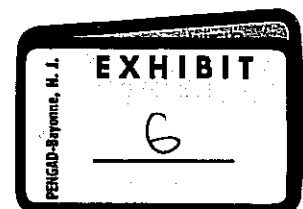
One additional DCI benefit that as far as I know has not been discussed thus far is the Long Term Disability that DCI provides for all employees. If you are interested in pursuing this benefit please let me know.

If none of the above options work, please know that once your condition improves to the point where your doctor fully releases you to work full time, you can call Karen or myself about reapplying for any open positions we might have.

I wish you the best, if you have any further questions, please feel to contact Karen Hamilton or me.

Sincerely,

P. L. (Lee) Ashbury, Jr.
Administrator



DIALYSIS CLINIC, INC.

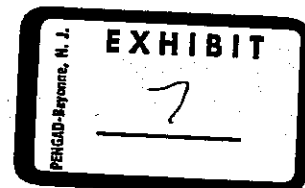
NOTICE OF EMPLOYEE TERMINATION

NAME Margaret Carter

DATE OF TERMINATION 7/24/05

REASON FOR TERMINATION Did not return from FMLA and Personal Leave - eligible for rehire

APPROVED Karen Hutton RV 8/09/05



IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

MARGARET A. CARTER,

Plaintiff,

Y.

DIALYSIS CLINIC, INC.,

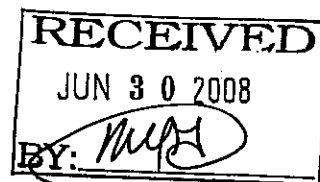
Defendant.

Civil Action No. 2:07cv00682-WKW

**DEFENDANT'S RESPONSE TO
PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Defendant, Dialysis Clinic, Inc. (hereinafter referred to as “Defendant” or “DCI”) submits the following response to Plaintiff’s first set of interrogatories. Defendant has endeavored to provide these responses based upon the best information now available. Information obtained by Defendant through future investigation and/or discovery may be relevant to these requests and Defendant’s responses, and accordingly, the following responses are based upon the records and information presently available to Defendant and are given without prejudice to Defendant’s right to introduce into evidence any subsequently discovered documents. Defendant reserves the right to revise, correct or add to the responses supplied herein.

Defendant reserves all rights to object to the admission into evidence of any response contained herein, and any failure to object herein is not a waiver of Defendant's right to object on any and all grounds as to the admissibility in evidence of any response provided. All contact with current and former DCI management employees should be made through counsel.



INTERROGATORIES

1. State the name of each individual and his or her job title and position who assisted in providing responses to these interrogatories.

RESPONSE: Dan Watson, Associate Director of Human Resources

2. Does the Defendant have policies and guidelines for management and supervisory personnel relevant to the prevention of FMLA retaliation? If your answer is in the affirmative, please state:

- a. The name, title and employment history of each person responsible for the development of such policies;
- b. The name, title, and employment history of each person responsible for the oversight of the policies' administration,
and;
- c. The manner in which employees are informed of any company policies concerning discrimination in the workplace.

To the extent that you refer Plaintiff to a document in response to this request, identify each such document by bates number/label and/or title.

RESPONSE: Defendant ("DCI") objects to this interrogatory on the grounds that it is vague and ambiguous. Without waiving this objection, Defendant states: DCI does not have written policies and guidelines for management and supervisory personnel that address specifically the prevention of FMLA retaliation. However, DCI has adopted a Family and Medical Leave of Absence Policy and an Equal Employment Opportunity Policy, both of which are published in its employee handbook, a copy of which has already been produced. Dave Hagewood, Director of Human Resources, and Dan Watson, Associate Director of Human Resources, have been responsible for the development of these policies. All supervisors and managers would be responsible for the administration of DCI policies and procedures. Through orientation, periodic training, on-the-job training, and verbal and written

communications, DCI educates all employees about its policies, procedures, and expectations. As a result of this formal and informal training, in addition to their relevant experience, DCI's managers and supervisors should understand that it is unlawful to take adverse action against employees for exercising their legal rights.

3. Please state whether the Defendant has received a complaint of FMLA retaliation within the relevant time period, and whether said complaint resulted in litigation or not. If so, please state:

- a. The name, title, and employment history of each applicant or employee who made such a complaint;
- b. The date of each complaint, a description of the complaint, its basis, the investigation that resulted, and its resolution;
- c. The name, title, and employment history of each person responsible for resolving each such complaint.

To the extent that you refer Plaintiff to a document in response to this request, identify each such document by bates number/label and/or title.

RESPONSE: Defendant objects to this interrogatory on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. DCI operates many facilities and employs thousands of individuals throughout the United States, and there is no allegation or evidence of a pattern or practice of systemic discrimination or retaliation in this case. Without waiving this objection, DCI states: Defendant is not aware of any complaint of FMLA retaliation by any employee, excluding Plaintiff, under the supervision of Mr. Lee Ashbury, Jr., who was the Administrator of the Union Springs clinic where Plaintiff worked.

4. Does the Defendant have any policies and/or procedures in place for handling complaints or allegations of FMLA retaliation? If so, please state;

- a. The name, title, and employment history of each person responsible for the development of the policies and/or procedures;
- b. The effective date of the policies and/or procedures; and
- c. The name, title, and employment history of each person responsible for administering the policies and/or procedures.

To the extent that you refer Plaintiff to a document in response to this request, identify each such document by bates number/label and/or title.

RESPONSE: DCI would refer Plaintiff to the Equal Employment Opportunity policy, the Unlawful Harassment policy, the Your Supervisor policy, and the Problem Solving Procedures policy, all of which are set forth in DCI's Employee Handbook. These policies have been effective for several years, and they were in effect throughout 2005. Dave Hagewood, Director of Human Resources, and Dan Watson, Associate Director of Human Resources, have been responsible for the development of these policies. All supervisors and managers would be responsible for the administration of DCI policies and procedures.

5. Has the Defendant taken any additional actions to insure that management is aware of such acts and/or circumstances since Plaintiff was subjected to the alleged acts of FMLA retaliation? If so, please describe what action was taken, including, but not limited to, the action taken, the name and title of each person responsible, and, the date the new measures were implemented.

To the extent that you refer Plaintiff to a document in response to this request, identify each such document by bates number/label and/or title.

RESPONSE: Defendant objects to this interrogatory on the grounds that it is vague and ambiguous. Without waiving that objection, and based on its understanding of the interrogatory, DCI states: Defendant did not implement any "new measures" in response to Plaintiff's allegations of FMLA retaliation.

6. Who made the decision to terminate Plaintiff? Please state the name and title of each person responsible.

RESPONSE: Mr. Lee Ashbury, Jr., Administrator, in consultation with Mr. Dan Watson, Associate Director of Human Resources. Defendant also believes that David Hagewood, Director of Human Resources, was consulted regarding the decision to discharge Plaintiff.

7. Why was Plaintiff terminated?

RESPONSE: DCI discharged Plaintiff because, after using all FMLA leave and personal leave to which she was entitled, she was not able to return to her full-time work schedule, and she declined the potential opportunity to work two, twelve-hour shifts per week.

8. Why was Ms. Carter's shift changed to three days a week, thirteen or fourteen hours a day while she was out on FMLA leave?

RESPONSE: Defendant objects to this interrogatory to the extent that it implies that DCI only changed Plaintiff's shift. During Plaintiff's leave of absence in 2005, DCI adopted new work schedules for all nurses and patient care technicians at the Union Springs clinic. Under the former schedule, full-time nurses worked approximately ten hours per day, four days per week. Under the new schedule, full-time nurses worked approximately twelve to thirteen hours per day, three days per week. DCI made the schedule change based on the number of patients, its standards for patient care, and cost considerations, including the desire to reduce overtime. The schedule change applied to all nurses and technicians.

9. Why was Ms. Carter not allowed to work eight-hour shifts?

RESPONSE: DCI determined that, given the clinic's adoption of 12-13 hour shifts for all nurses and technicians, 8 hour shifts were not compatible with the clinic's scheduling requirements.

VERIFICATION

STATE OF TENNESSEE)
)
COUNTY OF DAVIDSON)

Dan Watson, being first duly sworn, upon oath deposes and says that he is the Associate Director of Human Resources of Defendant Dialysis Clinic, Inc. and that he is authorized to make this verification on its behalf; that he has read the foregoing Responses to Interrogatories and that said responses were prepared with the assistance and advice of counsel and the assistance of various employees and representatives of the Defendant upon which he has relied; that the Responses set forth herein are subject to inadvertent or undiscovered errors, are based on and therefore necessarily limited by the records and information still in existence, presently recollected and thus far discovered in the course of the preparation of these Responses; that the foregoing Responses are thus based upon corporate knowledge and are true and correct to the best of his knowledge and belief; that, consequently, Defendant reserves the right to make any changes in the Responses if it appears at any time that omissions or errors have been made therein or that more accurate information is available; and that subject to the limitations set forth herein, the said Responses are true to the best of his knowledge, information and belief.

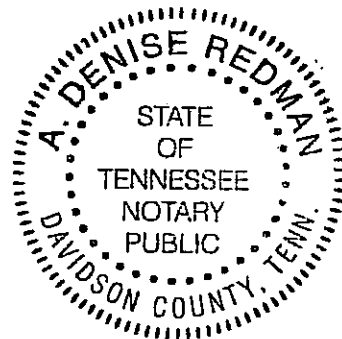
Dan Watson
Dan Watson

Sworn to and subscribed before me, this 26th day of June, 2008.

A. Denise Redman
Notary Public

My Commission Expires:

My Commission Expires NOV. 14, 2009



DATED this 27th day of June, 2008.

Respectfully submitted,



Davidson French (TN BPR#015442)
Tim K. Garrett (TN BPR #12083)
Bass, Berry & Sims, PLC
315 Deaderick Street, Suite 2700
Nashville, Tennessee 37238
(615) 742-6240
(615) 742-2740 Fax
Email: dfrench@bassberry.com

Henry C. Barnett, Jr. Esq. (AL BAR 037)
Capell & Howard P.C.
150 South Perry Street
Montgomery, Alabama 36104
(334) 241-8000
(334) 241-8214 Fax
Email: hcb@chlaw.com

Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 27th of June, 2008 a copy of the foregoing Defendant's Response to Plaintiff's First Set of Interrogatories was served by U.S. Mail on:

John D. Saxon
Russell P. Parker
Attorneys for Plaintiffs
2119 Third Avenue North
Birmingham, AL 35203



DIALYSIS CLINIC, INC.
Job Descriptions

JOB TITLE: Administrator

EXEMPT: Yes

JOB CODE: E040 _____

DIVISION: Administrative Office

DEPARTMENT: Administration

REPORTS TO: Corporate Administrator

SUMMARY: Responsible for the overall management of the ^{Atlanta} ~~Atlanta~~ facilities in accordance with written policies established by the Board of Trustees and the Medical Director(s).

ESSENTIAL DUTIES AND RESPONSIBILITIES includes the following. Other duties may be assigned.

Provides a clean and safe environment for patients, visitors and staff.

Develops, executes and enforces policies relative to:

- (a) the protection of patients' personal and property rights, and
- (b) the general operation of the facility

All policies will be in writing, clearly stated, dated, reviewed at least annually and revised as necessary with the assistance of appropriate personnel and in coordination with the Board of Trustees, who retain the right to review and/or revise all such policies at any time.

Furnishes Federal and State agencies all data required for certification.

Maintains and submits appropriate records and reports as may be required by Federal and State agencies, and fiscal intermediaries.

Assures that formal means of accountability are established by the Medical Director for those involved in patient care.

Oversees the financial operation of the facility including accounts payable, accounts receivable, payroll, general ledger and purchasing functions and furnishes a monthly statement of operations to the Corporation.



Administrator

Page Two

Participates in contract negotiations into which the facilities may enter with the ESRD Network, vendors, and consultants, providers of services not furnished directly by the facility, et cetera. Assures facilities compliance with ESRD Network, regulatory agencies, DCI Corporate and the individual clinics requirements.

Maintains an open line of communication with the staff through staff meetings, individual conferences, and written memoranda.

Responsible for setting employment policies and procedures within DCI's guidelines and oversees the application of these policies and procedures.

Responsible for overseeing the Quality Assurance and Risk Management Programs in accordance with the policies and procedures of DCI and the individual clinic's.

SUPERVISORY RESPONSIBILITIES:

Coordinates with Medical Director(s) the supervision of the Nurse Managers. Supervises the Accounting Manager, the QA/Risk Manager and the Educational Coordinator. Provide indirect supervision for all other employees.

Carries out supervisory responsibilities in accordance with the organization's policies and applicable laws. Responsibilities include interviewing, hiring, and training employees; planning, assigning, and directing work; appraising performance; rewarding and disciplining employees; addressing complaints and resolving problems.

QUALIFICATION REQUIREMENTS: To perform this job successfully, an individual must be able to perform each essential duty satisfactorily. The requirements listed below are representative of the knowledge, skill, and/or ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

EDUCATION and/or EXPERIENCE:

Baccalaureate degree (B.S. or B.A.) or its equivalent and has at least one year of experience in a ESRD unit; or a registered nurse or physician director as defined in this definition; or has demonstrated capability by acting for at least two years as a chief executive officer in a dialysis unit or transplantation program [Federal Regulations Vol 41, No 108, 405.2102 (a)].

LANGUAGE SKILLS:

Ability to read, analyze, and interpret general business periodicals, professional journals, technical procedures, or governmental regulations. Ability to write reports, business correspondence, and procedure manuals. Ability to effectively present information and respond to questions from physicians, managers, patients and staff.

Administrator

Page Three

MATHEMATICAL SKILLS:

Ability to comprehend and apply principles of advanced calculus, modern algebra, and advanced statistical theory. Knowledge of accounting principles.

REASONING ABILITY:

Ability to define problems, collect data, establish facts, and draw valid conclusions. Ability to interpret an extensive variety of technical instructions in mathematical or diagram form and deal with several abstract and concrete variables.

OTHER SKILLS and ABILITIES:

Ability to establish effective interpersonal relationships with all levels of medical personnel, management and staff.

Ability to effectively relate with patients, families and community agencies.

PHYSICAL DEMANDS: The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is regularly required to use hands to finger, handle, or feel objects, tools, or controls. The employee regularly is required to stand, walk, and reach with hands and arms. The employee is regularly required to sit; stoop, kneel, crouch, or crawl; and talk and hear.

The employee must frequently lift and/or move up to 50 pounds. Specific vision abilities required by this job include distance vision, color vision, peripheral vision, depth perception, and the ability to adjust focus.

WORK ENVIRONMENT: The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Moderate to frequent travel to be expected, therefore a current drivers license and motor vehicle is required. May require flexible hours as dependant upon the facilities needs.

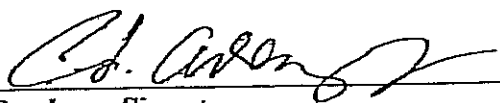
Since this is a healthcare environment, there is the possibility of exposure to infectious/contagious diseases, hazardous chemicals and materials, needlesticks, and blood and body fluids. Further information regarding this position's specific work environment and exposure category will be provided during orientation. *This position is classified as a CATEGORY II*

Administrator

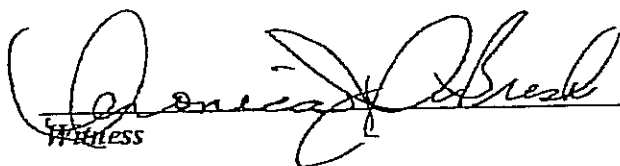
Page Four

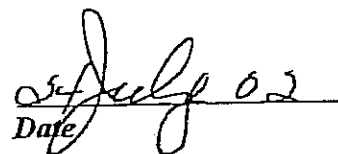
WORK HOURS: DCI reserves the right to alter your work hours and schedule in order to accommodate patient and staffing needs.

I have read and understand the above and have been given the opportunity to ask questions.


Employee Signature


Date


Witness


Date

Approved By:

Tony Messana, Corporate Administrator

Date

1 April 1993

NOTE: The above statements are intended to describe the general nature and level of work performed by people assigned to this classification. They are not construed to be an exhaustive list of all job duties performed by the personnel so classified.
